

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 3. DEPARTMENT OF AGRICULTURE ENVIRONMENTAL SERVICES DIVISION

[R08-69]

PREAMBLE

1. Sections Affected

Table 1
R3-3-1101
R3-3-1102
R3-3-1103
R3-3-1104
R3-3-1105
R3-3-1106
R3-3-1107
R3-3-1108
R3-3-1109
R3-3-1110
R3-3-1111
Appendix A

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Repeal
Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 3-107(A)(1), 41-1073

Implementing statutes: A.R.S. §§ 3-903(B), 3-904(C), 3-905(C), 3-906(D), 3-908(E), 3-910(B), 3-911(C), 3-912, and 3-913

3. The effective date of the rules

May 3, 2008

4. A list of all previous notices appearing in the *Register* addressing the final rules:

Notice of Rulemaking Docket Opening: 13 A.A.R. 4045, November 16, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 3970, November 16, 2007

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Carlos Ramirez, Rules Analyst

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6. An explanation of the rules, including the agency's reasons for initiating the rules:

The rulemaking clarifies requirements under Native Plant provisions of the Environmental Services Division. *[Editor's Note: Although the Department is not amending R3-3-102, under A.R.S. § 41-1013(D) the Department is including it in this notice to make the proposed amendments to Table 1 properly understood.]*

The rulemaking updates scientific names, definitions and makes the rules consistent with current practices. The legislature annually appropriates funding for this program from the Native Plant fund which is categorized as an "other" appropriated fund. Although the appropriation amount has not increased, the amount of money in this fund has dropped significantly to the point of having to make precision payments of expenses to coincide with when adequate deposits have been made. This rulemaking slightly increases the fees to address some of those costs.

In addition, the rulemaking simplifies and clarifies the permitting process. This allows for the movement of smaller plants which routinely would be bulldozed over, to save them from destruction. The time-frames associated with permitting have also been changed to be consistent between types of permits. In most cases these times have been made more reasonable to allow sufficient time for adequate processing.

Furthermore, non-commercial native plant permits have been defined, which should also help to conserve the number of native plants. A process has been introduced with this rulemaking for situations where a person may want to donate protected native plants.

The language has also been updated to conform to rulemaking format and style requirements of the Council, the Office of the Secretary of State, and the Administrative Procedure Act.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

A. The Arizona Department of Agriculture.

The Department will incur modest expenses related to training staff and educating the regulated community on the amendment.

B. Political Subdivision.

Other than the Department, no political subdivision is affected by this rulemaking.

C. Businesses Directly Affected By the Rulemaking.

The regulated community will incur a slight increase in fees. Additionally, native plant licensees will need to become aware of the recodification and subsequent movement of the related licensing time-frames from the Plant Services Division to the Environmental Services Division.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Nonsubstantive grammatical and content changes suggested by the Department's Assistant AG.

11. A summary of the comments made regarding the rule and the agency response to them:

The Department has not received any comments regarding the proposed rulemaking.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Were the rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 3. AGRICULTURE

CHAPTER 3. DEPARTMENT OF AGRICULTURE
ENVIRONMENTAL SERVICES DIVISION

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ARTICLE 1. GENERAL PROVISIONS

Section
Table 1. Time-frames (Calendar Days)

ARTICLE 11. ARIZONA NATIVE PLANTS

Section
R3-3-1101. Definitions
R3-3-1102. Protected Native Plant Destruction by a Private Landowner
R3-3-1103. Disposal and Salvage of Protected Native Plants by a State Agency
R3-3-1104. Protected Native Plant Permits; Tags; Seals; Fees
R3-3-1105. Scientific Permits; Noncommercial Salvage Permits
R3-3-1106. Protected Native Plant ~~Surveys~~ Survey; Fee
R3-3-1107. Movement ~~Permit~~ Permits; Tags, ~~Metal~~ Seals, and Cord Use
R3-3-1108. Recordkeeping; Salvage Assessed and Harvest Restricted Native Plants
R3-3-1109. Arizona Native Plant Law Education
R3-3-1110. Permit Denial, ~~Revocation, and Suspension~~
R3-3-1111. ~~Confiscation of Plants, Plant Parts, Wood, Fiber, or Artifacts as Evidence~~ Repealed
Appendix A. Protected Native Plants By ~~Categories~~ Category

ARTICLE 1. GENERAL PROVISIONS

R3-3-102. Licensing Time-frames

- A. Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of days provided for the administrative completeness review and the substantive review.
- B. Administrative completeness review.
1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.
 2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails the notice of missing information to the applicant until the date the Department receives the information.
 3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.
- C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.
1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.
 2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant's right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
Regulated Grower Permit	A.R.S. § 3-363	14	14	56	14	70
Seller Permit	A.R.S. § 3-363	14	14	56	14	70
Agricultural Aircraft Pilot License	A.R.S. § 3-363	14	14	56	14	70

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Custom Applicator License	A.R.S. § 3-363	14	14	63	14	77
Application Equipment Tag	A.R.S. § 3-363	14	14	56	14	70
Agricultural Pest Control Advisor (PCA) License	A.R.S. § 3-363	14	14	63	14	77
Commercial Applicator Certification	A.R.S. § 3-363	14	14	63	14	77
Private Applicator Certification	A.R.S. § 3-363	14	14	63	14	77
Private Fumigation Certification	A.R.S. § 3-363	14	14	63	14	77
Experimental Use Permit	A.R.S. § 3-350.01	14	14	28	14	42
Pesticide Registration	A.R.S. § 3-351	14	14	-91	14	105
License to Manufacture or Distribute Commercial Feed	A.R.S. § 3-2609	14	14	42	14	56
Commercial Fertilizer License	A.R.S. § 3-272	14	14	42	14	56
Specialty Fertilizer Registration		14	14	56	14	70
Agricultural Safety Trainer Certification	A.R.S. § 3-3125	28	14	28	14	56
ARIZONA NATIVE PLANTS						
Notice of Intent Confirmation Notice of Intent	A.R.S. § 3-904	7 14	14	7 14	14	14 28
• Salvage Assessed Native Plant Permits	A.R.S. § 3-906	5 14	14	5 14	14	10 28
• Salvage Restricted Native Plant Permits		5 14	14	5 14	14	10 28
• Scientific Permits		14	14	14	14	28
Movement Permits	A.R.S. § 3-906	5 14	14	5 14	14	10 28
Annual Permits for Harvest-Restricted Native Plants	A.R.S. § 3-907	5 14	14	5 14	14	10 28

ARTICLE 11. ARIZONA NATIVE PLANTS

R3-3-1101. Definitions

In addition to the definitions ~~provided~~ in A.R.S. § 3-901, the following terms apply to this Article:

- 1- “Agent” means a person authorized to manage, represent, and act for a landowner.

“Certificate of inspection for interstate shipments” means a certificate to transport protected native plants out of the state.

“Conservation” means prevention of exploitation, destruction, or neglect of native plants while helping to ensure continued public use.

- 2- “Cord” means a specific type string or small rope issued by the Department for attaching tags and seals to protected native plants.

“Cord of wood” means a measurement of firewood equal to 128 cubic feet.

“Department” means the Arizona Department of Agriculture.

- 3- “Destroy” means to cause the death of any protected native plant.

“Harvest restricted native plant permit” means a permit required to remove the by-products, fibers, or wood from a native plant listed in Appendix A, subsection (D).

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4. "Landowner" means a person who holds title to a parcel of land.
"Noncommercial salvage permit" means a permit required for the noncommercial salvage of a highly safeguarded native plant.
5. "Original growing site" means a place where a plant is growing wild and is rooted to the ground or any property owned by the same landowner where a protected native plant is relocated or transplanted without an original transportation permit.
6. "Permittee" means any person who is issued a ~~valid~~ permit by the Department for removing and transporting protected native plants.
7. ~~"Pincushion" means any coryphantha or mammillaria Coryphantha spp. or Mammillaria spp. cactus and for purposes of assessing tag fees in R3-3-1104(D)(E) includes any protected plant 8" inches in height or less.~~
8. "Protected native plant" means any living plant or plant part listed in Appendix A and growing wild in Arizona.
"Protected native plant tag" means a tag issued by the Department to identify the lawful removal of a protected native plant, other than a saguaro cactus, from its original growing site.
12. ~~"White Saguaro tag" means a white tag issued by the Department to identify any a saguaro cactus being lawfully moved from its original growing site.~~
"Salvage assessed native plant permit" means a permit required to remove a native plant listed in Appendix A, subsection (C).
"Salvage restricted native plant permit" means a permit required to remove a native plant listed in Appendix A, subsection (B).
9. ~~"Scientific collection permit" means a permit required to remove a native plant for a controlled experimental project of protected native plants conducted by a qualified individuals person.~~
10. ~~"Securely affixed tie" means to fasten in a tight and secure manner to prevent the removal of tags, seals, or cord for reuse.~~
"Small Native Plant" means any protected plant eight inches in height or less.
11. ~~"Survey" means the process by which a parcel of land is examined for the presence of protected native plants. a: A simple survey determines only whether protected native plants are present. b: A complete survey establishes the kind and number of each species present.~~
"Wood receipt" means a receipt issued by the Department to identify the lawful removal of a protected native plant harvested for fuel, being removed from its original growing site.
13. ~~"Yellow tag" means a yellow tag issued by the Department to identify any protected native plant, except a saguaro cactus, being moved from its original growing site.~~

R3-3-1102. Protected Native Plant Destruction by a Private Landowner

A. Department notification Notice of intent.

1. Before ~~any a~~ protected native plant is destroyed, the private landowner shall ~~submit~~ provide the following information to the Department on a ~~Notice of Intent~~ form obtained from the Department:
 - a. ~~The name~~ Name, address, and telephone number of the landowner;
 - b. ~~The name~~ Name, address, and telephone number of the landowner's agent, ~~if the landowner is not a resident of this state or is otherwise unavailable~~ applicable;
 - c. ~~The most recent tax parcel identification number or other tax assessment, or document indicating land ownership~~ Valid documentation indicating land ownership, including but not limited to a parcel identification number, tax assessment, or deed;
 - d. ~~A legal~~ Legal description, ~~assessor's parcel number~~, map, address, or other description of the area, including the number of acres to be cleared, in which the protected native plants subject to the destruction are located;
 - e. ~~The earliest~~ Earliest date of the plant destruction; and
 - f. ~~The landowner's intentions~~ Landowner's intent for the disposal or salvage of protected native plants on the ~~private~~ land.
2. A landowner ~~who will~~ intending to destroy protected native plants ~~over on~~ on an area of less than one acre may ~~orally~~ submit the information required in subsection (A)(1) to the Department verbally.

B. A landowner shall not destroy ~~any a~~ protected native plants plant until:

- ~~a.1. The landowner receives a written confirmation notice is received from the Department, and~~
2. ~~the time prescribed under A.R.S. § 3-904(A)(3) has elapsed. Notice is given to the Department within the following minimum time periods:~~
 - a. Twenty days before the plants are destroyed over an area of less than one acre.
 - b. Thirty days before the plants are destroyed over an area of one acre or more but less than 40 acres.
 - c. Sixty days before the plants are destroyed over an area of 40 acres or more.

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- C. ~~Any~~ The Department shall provide a salvage operator or other interested person may obtain protected native plant destruction notice information by providing that with a copy of a notice of intent submitted under this Section upon receipt of the private landowner's person's name, address, and telephone number, and payment of an annual non-refundable \$25.00 \$25 nonrefundable fee.

R3-3-1103. Disposal and Salvage of Protected Native Plants by a State Agency

- A.** A state agency ~~intending to remove or destroy protected native plants~~ shall notify the Department, under A.R.S. § 3-905, and ~~may dispose of protected native plants using any of the following methods:~~ shall propose a method of disposal from the following list:
1. The plants may be sold at a public auction;
 2. The plants may be relocated or transported to a different location on the same property or to another property owned by the state, ~~without obtaining a permit;~~
 3. ~~The state agency may obtain permits for removal of the plants for revegetation projects;~~
 - 4-3. The plants may be donated to scientific, educational, and charitable institutions; nonprofit organizations as provided in A.R.S. § 3-916;
 - 5-4. The plants may be donated to ~~other~~ another state agencies agency or political subdivisions subdivision, without obtaining a permit; or
 - 6-5. The plants may be salvaged or harvested by ~~the~~ a member of the general public or a commercial dealers- dealer, if the person holds a permit as provided under A.R.S. § 3-906 or 3-907.
- B.** If the plants are highly safeguarded native plants, they shall first be made available to the holder of a scientific permit or a noncommercial salvage permit.

R3-3-1104. Protected Native Plant Permits; Tags; Seals; Fees

- A.** A person shall not collect, transport, possess, sell, offer for sale, dispose, or salvage protected native plants unless that person is 18 years of age or older and ~~holds a~~ possesses an appropriate permit.
- B.** ~~A permit~~ An applicant shall submit the following information to the Department on a form obtained from the Department, as, if applicable:
1. ~~The name~~ Name, business name, address, telephone number, ~~social security~~ Social Security number or tax identification number, and signature of the applicant;
 2. ~~The name~~ Name and number of plants to be removed;
 3. ~~The purpose~~ Purpose of the plant removal;
 4. Whether the applicant has a conviction for a violation of a state or federal statute regarding the protection of native plants within the previous five years;
 5. Except for salvage assessed native plants;
 - a. ~~The name,~~ Name, address, telephone number, and signature of the landowner;
 - b. ~~The location~~ Location of the permitted site and size of acreage;
 - c. ~~The destination~~ Destination address where the plants will be transplanted;
 - d. ~~The legal~~ Legal and physical description of the location of the original growing site; and
 - e. ~~The more recent tax parcel~~ Parcel identification number ~~available~~ for the permitted site; or other ~~tax assessment~~ documents indicating proving land ownership.
- C.** Permit fees.
1. ~~Any~~ A person removing and transporting protected native plants shall submit the following applicable fee to the Department with the permit application:
 - a. Salvage assessed native plant permit, annual use, ~~\$25.00~~ \$35;
 - b. Harvest restricted native plant permit, annual use, ~~\$25.00~~ \$35;
 - c. All other native plant permits, one-time use, ~~\$5.00~~ \$7;
 - d. Certificate of inspection for interstate shipments, \$15.
 2. Exemptions. ~~The following protected~~ Protected native plants are exempt from fees if:
 - a. The protected native plants intended for personal use by a landowner are taken from one piece of land owned by the landowner to another piece of land also owned by the landowner, remain on the property of the landowner, and are not sold or offered for sale;
 - b. The protected native plants are collected for scientific purposes; or
 - c. A landowner donates the protected native plant to a scientific, educational, or charitable institution.
- D.** Tag and harvesting fees.
1. Any person obtaining a ~~white saguaro tag or yellow~~ other protected native plant tag or receipt shall submit the following applicable fee to the Department at the time ~~the a~~ tag is obtained:
 - a. Saguaro, ~~\$6.00~~ \$8 per plant;
 - b. Trees cut for firewood and listed in the harvest restricted category, ~~\$4.00~~ \$6 per cord of wood;
 - c. ~~Pinecushion~~, Small native plant, \$.50 per plant;
 - d. ~~All~~ Any other protected native plants plant referenced in A.R.S. §§ 3-903(B) and (C) and listed in Appendix A,

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~~\$4.00~~ \$6 per plant.

2. ~~Harvested restricted native plants, of~~ The fee for harvesting *nolina* and or *yucca* parts is \$4.00 \$6 per ton. Payment shall be made to the Department in the following manner:

- a. Unprocessed *nolina* or *yucca* fiber shall be weighed on a state-certified bonded scale; and
- b. The harvester shall submit payment and weight certificates to the Department no later than the tenth day of the month following each harvest.

E. Seal fees. A person obtaining a seal shall submit a \$.15 per plant fee to the Department at the time a seal is obtained.

F. Salvage assessed native plant permits and plant tags are valid for the calendar year in which they are issued. The tags expire at the end of the calendar year unless the permit is renewed.

R3-3-1105. Scientific Permits; Noncommercial Salvage Permits

A. Scientific Permit

1. A person shall not collect any highly safeguarded or other protected native plants for a research projects project unless that person holds a scientific permit.

~~B.2. A permit~~ An applicant shall submit the following information to the Department: on a form obtained from the Department:

- 1-a. ~~The name~~ Name, address, and telephone number of the company or research facility applying for the permit;
- 2-b. ~~The name~~ Name, and title and experience of the person conducting the research project;
- 3-c. ~~The purpose~~ Purpose and intent of the research project;
4. ~~The results of the research, whether the results will be published, and the media used to publish the results;~~
- 5-d. ~~The controls~~ Controls to be used;
- 6-e. ~~The variables~~ Variables to be considered;
- 7-f. ~~The length of time~~ Time-frame for the project ~~will take;~~
- 8-g. ~~The expected~~ Anticipated results and plans for publication;
- 9-h. ~~Reports~~ The type of reports and recordkeeping that will be used to monitor the project;
- 10-i. ~~Project funding source;~~ The type of funding that will be used;
- 11-j. ~~Funding~~ The funding of the company or research facility;
- 12-k. ~~Written authorization from the landowner~~ The written approval for collection of the plants from the legal owner;
- 13-l. ~~Date~~ The date of the application; and
- 14-m. ~~Signed affirmation by the applicant~~ The signature of the person authorized on behalf of the company or research facility affirming that the plants collected will not be sold or used for personal interests; and
- n. Tax identification number, or if applicant is an individual, a Social Security number.

~~C.3. Scientific research permits~~ A scientific permit shall be issued if all of the applicant provides documentation that demonstrates the following are met:

- 1-a. ~~The native plant removal site is restored to a natural appearance and the site restoration is approved by the site owner; A plan, pre-approved by the landowner, to restore the removal site to a natural appearance;~~
- 2-b. ~~The removal and movement of the native plants are~~ shall be accomplished by a person equipped and experienced in native plant removal and transplantation;
- 3-c. ~~The native plants used in the project are~~ shall remain accessible to the scientific community and state and local regulatory agencies Department;
- 4-d. ~~The ecology of the project site is beneficial to the growth of the specific plants in the project if practical;~~
- 5-e. ~~Arrangements are made exist~~ for a suitable permanent planting site for the surviving plants after the project's completion; and
- 6-f. ~~Security is provided at the project site to prevent the destruction or theft of native plants used in the research.~~ Description of plant disposition and research hypothesis.

~~D.4. Scientific permits are~~ A scientific permit is valid for the calendar year in which they are it is issued.

B. Noncommercial salvage permit:

1. Highly safeguarded native plants may only be collected for conservation by a person holding a noncommercial salvage permit.
2. An applicant shall submit the following information to the Department, on a form obtained from the Department:
 - a. Name, address, and telephone number of the applicant applying for the permit;
 - b. Proposed relocation site for the plants;
 - c. Written authorization from the landowner for collection of the plants;
 - d. Date of the application; and
 - e. Signed affirmation by the applicant that the plants collected will not be sold or used for personal interests.
3. A noncommercial salvage permit shall be issued if all of the following conditions are met through documentation provided to the Department:
 - a. The native plants used in the project shall be accessible to the Department after transplant, and
 - b. The relocation site is beneficial to the growth of the specific plants in the project.

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4. A noncommercial salvage permit is valid only for the transportation and the transplantation of the particular native plant.

R3-3-1106. Protected Native Plant Surveys; Survey Fee

- ~~A.~~ Except for permits issued for salvage assessed native plants, any person harvesting protected native plants shall conduct a survey and provide a written report to the Director of the plant survey results before a permit is issued.
- ~~B.~~ The landowner, permittee, or agent may conduct the survey or request that the survey be conducted by the Department.
1. ~~If the landowner, permittee, or agent conducts the survey, the following information shall be completed on a survey form furnished by the Department:~~
- ~~a. The name, address, telephone number, and signature of the landowner, permittee, or agent performing the survey;~~
- ~~b. The date the survey is performed;~~
- ~~c. The survey results including the names and numbers of plants.~~
- ~~2.~~ A. Upon request, If the Department may conducts the conduct a native plant survey, the survey shall be completed within 20 working days. Upon completion, the Department shall notify the landowner, permittee, or agent individual who made the request of:
- ~~a.1.~~ 1. The date the survey was performed;
- ~~b.2.~~ 2. The amount of the survey fee payable to the Department;
- ~~c.3.~~ 3. The name of Department personnel performing the survey;
- ~~d.4.~~ 4. Upon payment, the The survey results including the names and numbers of protected native plants.
- ~~C.B.~~ The following fees for a Department conducted survey shall be paid A person who requests a native plant survey shall pay the survey fee to the Department within 30 days from the date of the notification. The survey fee shall be based on time and travel expenses, except that no fee shall be charged for a determination of whether protected species exist on the land.
1. Simple survey, no fee;
2. Complete survey, includes time and travel, as prescribed under A.R.S. §§ 38-611(B) and 38-623(C) and (D).

R3-3-1107. Movement Permit Permits; Tags, Metal Seals, and Cord Use

- A. Any person moving a protected native plant, except a saguaro cactus, previously transplanted from its original growing site in Arizona and transplanting it to another location shall apply to the Department for a Movement Permit. The landowner from where the plant is being moved shall provide the following information on the permit application:
1. The name, telephone number, and signature of the landowner;
 2. The location of the plant;
 3. The name, address, and telephone number of the receiver;
 4. The name, address, and telephone number of the carrier;
 5. The number, species, and description of the plant being removed;
 6. The tax parcel identification number; and
 7. The date of the application.
- B. Any person moving a saguaro cactus over four feet tall previously transplanted from its original growing site in Arizona and transplanting it to another location shall apply to the Department for a Movement Permit. The landowner from where the saguaro cactus is being moved shall provide the following information on the permit application, unless the applicant maintains a record of the original permit or verifies the Department has a record of a previous legal movement of the cactus by the applicant.
1. The name, telephone number, and signature of the landowner;
 2. The address where the saguaro cactus is located;
 3. The name, address, and telephone number of the receiver;
 4. The name, address, and telephone number of the carrier;
 5. The number, species, and description of the plant being removed;
 6. The tax parcel identification number of the property where the saguaro cactus is being moved; and
 7. The date of the application.
- ~~C.~~ Movement of protected native plants obtained outside Arizona.
1. Any person moving a protected native plant obtained outside Arizona and transporting and planting it within the state shall declare the protected native plant at the agricultural inspection station nearest the port of entry. The Department shall place the protected native plant under "Warning Hold" to the nearest ~~district permitting~~ office.
 2. If ~~no~~ an agricultural station is not in operation at the port of entry, the person shall declare the protected native plant at the nearest ~~district permitting~~ office during normal office hours.
 3. After the plants have been declared, the ~~district permitting~~ office shall issue a Movement Permit and ~~a green~~ seal.
- ~~C.D.~~ Any person moving protected native plants shall obtain, ~~at cost,~~ the following ~~metal~~ seals from the Department and securely attach the appropriate seal to each protected native plant:
1. ~~Blue~~ Protected native plant seals identify protected native plants, except saguaro cacti, that will be moved from loca-

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tions that are not the original growing sites.

2. ~~White seals identify the protected saguaro cactus.~~

3. ~~2. Green Imported seals identify all imported protected native plants.~~

4. ~~Yellow seals identify all protected native plants, except imported protected native plants and the protected saguaro cactus.~~

~~D.E.~~ Tag, metal seal, and cord attachment.

1. ~~A tag shall be attached~~ A permittee shall attach a tag to each protected native plant taken from its original growing site, using cord provided by the Department, before ~~being transported~~ transport. No other type of rope, string, twine, or wire is allowed.

2. The cord shall be securely ~~affixed~~ tied around the plant, and ~~knotted with~~ the tag attached so that it cannot be removed without breaking the seal or cutting the cord.

3. The tag shall be placed directly over the knot in the cord and the ends pressed firmly together sealing the knot so that it cannot be removed for reuse.

3.4. ~~The metal protected native plant seal shall be placed directly over the knot and snapped firmly closed, sealing the knot.~~

5. The imported seal shall be attached directly to the plant.

4.6. ~~Upon loading the plant, every effort shall be made to make allow visibility of the tag visible during transporting trans-~~
port.

R3-3-1108. Recordkeeping: Salvage Assessed and Harvest Restricted Native Plants

~~A.~~ Harvest restricted native plants.

1. ~~Unprocessed nolina and yucca fiber shall be weighed at a state certified bonded scale;~~

2. ~~The harvester shall submit payment and weigh certificates to the Department no later than the 10th day of the month following each harvest.~~

~~B.~~ Recordkeeping.

~~1-A.~~ Salvage Assessed Native Plants.

a.1. ~~A permittee shall maintain a record of each protected native plant removed under an annual permit for two years from the date of each transaction and allow Department inspection of the records during normal business hours. The transaction record shall include the date salvage restricted protected native plants were removed; and the permit and tag numbers.~~

b.2. ~~Before Annually, by January 31, the a permittee shall submit to the Department a copy of each transaction record for the prior calendar year.~~

2. ~~B.~~ Harvest Restricted Native Plants. ~~No later than the 10th day of each month, a A permittee shall submit to the Department by the tenth day of each month the transaction records for transactions that took place the previous month, or a written statement that no transaction was transactions were conducted for that month.~~

R3-3-1109. Arizona Native Plant Law Education

A. Seminars The Department may schedule seminars and training courses ~~shall be scheduled~~ on an as-needed basis.

B. In addition to the following fees, charges for printed materials or pamphlets shall be assessed based upon ~~the document~~ printing and mailing costs:

1. ~~Any A~~ person attending a seminar or training course ~~in on~~ Arizona native plant law shall pay a nonrefundable fee of ~~\$5.00~~ \$10 to the Department before attending the class.

2. ~~Any A~~ person convicted of violating the Arizona native plant ~~statutes or rules~~ laws and ordered by a court to attend a native plant ~~law~~ educational class shall pay a nonrefundable fee of ~~\$15.00~~ \$25 to the Department before attending the class. The Department shall provide written confirmation of satisfactory completion to a person ordered by a court to attend a class.

3. ~~Schools, law enforcement agencies, and government entities are exempt from seminar and training course fees.~~

~~C.~~ ~~The Department shall provide written confirmation of satisfactory completion to any person ordered by a court to attend the class.~~

R3-3-1110. Permit Denial, Revocation, and Suspension

~~A.~~ ~~In addition to the prohibited acts listed in A.R.S. § 3-908(A), the Director may deny, revoke, or suspend a permit for any of the following:~~

1. ~~A violation of 3 A.R.S. 7; 3 A.A.C. 3, Article 11; or any federal native plant law;~~

2. ~~Misuse of a permit, tag, or metal seal;~~

3. ~~Failure of an applicant or permittee to submit a complete and accurate permit application or a transaction report; and~~

4. ~~Failure to allow the Department to inspect transaction records.~~

~~B.~~ Upon notice of denial of a permit, an ~~The applicant or permittee~~ may request, in writing, that the Department provide an administrative hearing under ~~41 A.R.S. Title 41, Chapter 6, Article 10, to appeal any the denial, revocation, or suspension of a permit.~~

Notices of Final Rulemaking

R3-3-1111. ~~Confiscation of Plants, Plant Parts, Wood, Fiber, or Artifacts as Evidence~~ Repealed

~~A. Following any determination by a court or the Department that a native plant law has been violated, all protected native plants, plant parts, wood, fiber, or artifacts confiscated and held as evidence shall become the property of the state, unless the court or the Department orders otherwise.~~

~~B. All confiscated evidence that becomes the property of the state shall be disposed of by the Department.~~

Appendix A. Protected Native Plants By ~~Categories~~ Category

~~A. Highly Safeguarded Protected Native Plants. The following list includes those species of native plants and parts of plants, including the seeds and fruit, whose prospects for survival in Arizona are in jeopardy or which are in danger of extinction. Highly safeguarded native plants as prescribed in A.R.S. § 3-903(B)(1), for which removal is not allowed except as provided in R3-3-1105:~~

~~AGAVACEAE Agave Family (including Nolinaceae)~~

~~*Agave arizonica* Gentry & Weber–Arizona agave~~

~~*Agave delamateri* Hodgson & Slauson~~

~~*Agave murpheyi* Gibson–Hohokam agave~~

~~*Agave parviflora* Torr.–Santa Cruz striped agave, Small-flowered agave~~

~~*Agave phillipsiana* Hodgson~~

~~*Agave schottii* Engelm. var. *treleasei* (Toumey) Kearney & Peebles~~

~~APIACEAE Parsley Family. [= Umbelliferae]~~

~~*Lilaeopsis schaffneriana* (Schlecht.) Coult. & Rose ssp. *recurva* (A. W. Hill) Affolter–Cienega false rush, Huachuca water umbel.~~

~~Syn.: *Lilaeopsis recurva* A. W. Hill~~

~~APOCYNACEAE Dogbane Family~~

~~*Amsonia kearneyana* Woods.–Kearney’s bluestar~~

~~*Cycladenia humilis* Benth. var. *jonesii* (Eastw.) Welsh & Atwood–Jones’ cycladenia~~

~~ASCLEPIADACEAE Milkweed Family~~

~~*Asclepias welshii* N. & P. Holmgren–Welsh’s milkweed~~

~~ASTERACEAE Sunflower Family [= Compositae]~~

~~*Erigeron lemmonii* Gray–Lemmon fleabane~~

~~*Erigeron rhizomatus* Cronquist–Zuni fleabane~~

~~*Senecio franciscanus* Greene–San Francisco Peaks groundsel~~

~~*Senecio huachucanus* Gray–Huachuca groundsel~~

~~BURSERACEAE Torch Wood Family~~

~~*Bursera fagaroides* (H.B.K.) Engler–Fragrant bursera~~

~~CACTACEAE Cactus Family~~

~~*Carnegiea gigantea* (Engelm.) Britt. & Rose–Saguaro: ‘Crested’ or ‘Fan-top’ form ~~only~~~~

~~Syn.: *Cereus giganteus* Engelm.~~

~~*Coryphantha recurvata* (Engelm.) Britt. & Rose–Golden-chested beehive cactus~~

~~Syn.: *Mammillaria recurvata* Engelm.~~

~~*Coryphantha robbinsorum* (W. H. Earle) A. Zimmerman–Cochise pincushion cactus, Robbin’s cory cactus.~~

~~Syn.: *Cochiseia robbinsorum* W.H. Earle~~

~~*Coryphantha scheeri* (Kuntze) L. Benson var. *robustispina* (Schott) L. Benson–Scheer’s strong-spined cory cactus.~~

~~Syn.: *Mammillaria robustispina* Schott~~

~~*Echinocactus horizonthalonius* Lemaire var. *nicholii* L. Benson–Nichol’s Turk’s head cactus~~

~~*Echinocereus triglochidiatus* Engelm. var. *arizonicus* (Rose ex Orcutt) L. Benson–Arizona hedgehog cactus~~

~~*Echinomastus erectocentrus* (Coult.) Britt. & Rose var. *acunensis* (W.T. Marshall) L. Benson–Acuna cactus~~

~~Syn.: *Neolloydia erectocentra* (Coult.) L. Benson var. *acunensis* (W. T. Marshall) L. Benson~~

~~*Pediocactus bradyi* L. Benson–Brady’s pincushion cactus~~

~~*Pediocactus paradinei* B. W. Benson–Paradine plains cactus~~

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Pediocactus peeblesianus (Croizat) L. Benson var. *fickeiseniae* L. Benson

Pediocactus peeblesianus (Croizat) L. Benson var. *peeblesianus* Peebles' Navajo cactus, Navajo plains cactus

Syn.: *Navajoa peeblesiana* Croizat

Pediocactus sileri (Engelm.) L. Benson–Siler pincushion cactus

Syn.: *Utahia sileri* (Engelm.) Britt. & Rose

COCHLOSPERMACEAE Cochlospermum Family

Amoreuxia gonzalezii Sprague & Riley

CYPERACEAE Sedge Family

Carex specuicola J. T. Howell–Navajo sedge

FABACEAE Pea Family [=Leguminosae]

Astragalus cremnophylax Barneby var. *cremnophylax* Sentry milk vetch

Astragalus holmgreniorum Barneby–Holmgren milk-vetch

Dalea tentaculoides Gentry–Gentry indigo bush

LENNOACEAE Lennoa Family

Pholisma arenarium Nutt.–Scaly-stemmed sand plant

Pholisma sonora (Torr. ex Gray) Yatskievych– Sandfood, sandroot

Syn.: *Ammobroma sonora* Torr. ex Gray

LILIACEAE Lily Family

Allium gooddingii Ownbey–Goodding's onion

ORCHIDACEAE Orchid Family

Cypripedium calceolus L. var. *pubescens* (Willd.) Correll–Yellow lady's slipper

Hexalectris warnockii Ames & Correll–Texas purple spike

Spiranthes delitescens C. Sheviak

POACEAE Grass Family [=Gramineae]

Puccinellia parishii A.S. Hitchc.–Parish alkali grass

POLYGONACEAE Buckwheat Family

Rumex orthoneurus Rech. f.

PSILOTACEAE Psilotum Family

Psilotum nudum (L.) Beauv. Bush Moss, Whisk Fern

RANUNCULACEAE Buttercup Family

Cimicifuga arizonica Wats.–Arizona bugbane

Clematis hirsutissima Pursh var. *arizonica* (Heller) Erickson–Arizona leatherflower

ROSACEAE Rose Family

Purshia subintegra (Kearney) J. Hendrickson–Arizona cliffrose, Burro Creek cliffrose

Syn.: *Cowania subintegra* Kearney

SALICACEAE Willow Family

Salix arizonica Dorn–Arizona willow

SCROPHULARIACEAE Figwort Family

Penstemon discolor Keck–Variegated beardtongue

- B. ~~Salvage Restricted Protected Native Plants.~~ The following list includes those species of native plants that are not included in the highly safeguarded category but are subject to damage by theft or vandalism. Salvage restricted native plants as prescribed in A.R.S. § 3-903(B)(2) that require a permit for removal. In addition to the plants listed under Agavaceae, Cactaceae, Liliaceae, and Orchidaceae, all other species in these families are salvage restricted protected native plants:**

AGAVACEAE Agave Family (~~including Nolinaceae~~)

Agave chrysantha Peebles

Agave deserti Engelm. ssp. *simplex* Gentry–Desert agave

Agave mckelveyana Gentry

Agave palmeri Engelm.

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Agave parryi Engelm. var. *couseii* (Engelm. ex Trel.) Kearney & Peebles

Agave parryi Engelm. var. *huachucensis* (Baker) Little ex L. Benson

Syn.: *Agave huachucensis* Baker

Agave parryi Engelm. var. *parryi*

Agave schottii Engelm. var. *schottii* – Shindigger

Agave toumeyana Trel. ssp. *bella* (Breitung) Gentry

Agave toumeyana Trel. ssp. *toumeyana*

Agave utahensis Engelm. spp. *kaibabensis* (McKelvey) Gentry

Syn.: *Agave kaibabensis* McKelvey

Agave utahensis Engelm. var. *utahensis*

~~*Dasyllirion wheeleri* Wats. – Sotol, desert spoon~~

~~*Nolina bigelovii* (Torr.) Wats. – Bigelow's nolina~~

~~*Nolina microcarpa* Wats. – Beargrass, sacahuista~~

~~*Nolina parryi* Wats. – Parry's nolina~~

~~*Nolina texana* Wats. var. *compacta* (Trel.) Johnst. – Bunchgrass~~

Yucca angustissima Engelm. var. *angustissima*

Yucca angustissima Engelm. var. *kanabensis* (McKelvey) Reveal

Syn.: *Yucca kanabensis* McKelvey

Yucca arizonica McKelvey

Yucca baccata Torr. var. *baccata* – Banana yucca

Yucca baccata Torr. var. *vespertina* McKelvey

Yucca baileyi Woot. & Standl. var. *intermedia* (McKelvey) Reveal

Syn.: *Yucca navajoa* Webber

Yucca brevifolia Engelm. var. *brevifolia* – Joshua tree

Yucca brevifolia Engelm. var. *jaegeriana* McKelvey

Yucca elata Engelm. var. *elata* – Soaptree yucca, palmilla

Yucca elata Engelm. var. *utahensis* (McKelvey) Reveal

Syn.: *Yucca utahensis* McKelvey

Yucca elata Engelm. var. *verdiensis* (McKelvey) Reveal

Syn.: *Yucca verdiensis* McKelvey

Yucca harrimaniae Trel.

Yucca schidigera Roezl. – Mohave yucca, Spanish dagger

Yucca schottii Engelm. – Hairy yucca

Yucca thornberi McKelvey

Yucca whipplei Torr. var. *whipplei* – Our Lord's candle

Syn.: *Yucca newberryi* McKelvey

AMARYLLIDACEAE Amaryllis Family

Zephyranthes longifolia Hemsl. – Plains Rain Lily

ANACARDIACEAE Sumac Family

Rhus kearneyi Barkley – Kearney Sumac

ARECACEAE Palm Family [=Palmae]

Washingtonia filifera (Linden ex Andre) H. Wendl – California fan palm

ASTERACEAE Sunflower Family [=Compositae]

Cirsium parryi (Gray) Petrak ssp. *mogollonicum* Schaak

Cirsium virginensis Welsh – Virgin thistle

Erigeron kuschei Eastw. – Chiricahua fleabane

Erigeron piscaticus Nesom – Fish Creek fleabane

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Flaveria macdougalii Theroux, Pinkava & Keil
Perityle ajoensis Todson—Ajo rock daisy
Perityle cochisensis (Niles) Powell—Chiricahua rock daisy
Senecio quaerens Greene—Gila groundsel

BURSERACEAE Torch-Wood Family

Bursera microphylla Gray—Elephant tree, torote

CACTACEAE Cactus Family

Carnegiea gigantea (Engelm.) Britt. & Rose—Saguaro

Syn.: *Cereus giganteus* Engelm.

Coryphantha missouriensis (Sweet) Britt. & Rose

Coryphantha missouriensis (Sweet) Britt. & Rose var. *marstonii* (Clover) L. Benson

Coryphantha scheeri (Kuntze) L. Benson var. *valida* (Engelm.) L. Benson

Coryphantha strobiliformis (Poselger) var. *orcuttii* (Rose) L. Benson

Coryphantha strobiliformis (Poselger) var. *strobiliformis*

Coryphantha vivipara (Nutt.) Britt. & Rose var. *alversonii* (Coult.) L. Benson

Coryphantha vivipara (Nutt.) Britt. & Rose var. *arizonica* (Engelm.) W. T. Marshall

Syn.: *Mammillaria arizonica* Engelm.

Coryphantha vivipara (Nutt.) Britt. & Rose var. *bisbeeana* (Orcutt) L. Benson

Coryphantha vivipara (Nutt.) Britt. & Rose var. *deserti* (Engelm.) W. T. Marshall

Syn.: *Mammillaria chlorantha* Engelm.

Coryphantha vivipara (Nutt.) Britt. & Rose var. *rosea* (Clokey) L. Benson

Echinocactus polycephalus Engelm. & Bigel. var. *polycephalus*

Echinocactus polycephalus Engelm. & Bigel. var. *xeranthemoides* Engelm. ex Coult.

Syn.: *Echinocactus xeranthemoides* Engelm. ex Coult.

Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *acicularis* L. Benson

Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *armatus* L. Benson

Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *chrysocentrus* L. Benson

Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *engelmannii*

Echinocereus engelmannii (Parry) Lemaire var. *variegatus* (Engelm.) Engelm. ex Rümpler

Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *fasciculatus*

Syn.: *Echinocereus fendleri* (Engelm.) Rümpler var. *fasciculatus* (Engelm. ex B. D. Jackson) N. P. Taylor,

Echinocereus fendleri (Engelm.) Rümpler var. *robusta* L. Benson; *Mammillaria fasciculata* Engelm.

Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *bonkeræ* (Thornber & Bonker) L. Benson.

Syn.: *Echinocereus boyce-thompsonii* Orcutt var. *bonkeræ* Peebles; *Echinocereus fendleri* (Engelm.) Rümpler var. *bonkeræ* (Thornber & Bonker) L. Benson

Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *boyce-thompsonii* (Orcutt) L. Benson

Syn.: *Echinocereus boyce-thompsonii* Orcutt

Echinocereus fendleri (Engelm.) Rümpler var. *boyce-thompsonii* (Orcutt) L. Benson

Echinocereus fendleri (Engelm.) Rümpler var. *fendleri*

Echinocereus fendleri (Engelm.) Rümpler var. *rectispinus* (Peebles) L. Benson

Echinocereus leidingii Peebles

Echinocereus nicholii (L. Benson) Parfitt.

Syn.: *Echinocereus engelmannii* (Parry ex Engelm.) Lemaire var. *nicholii* L. Benson

Echinocereus pectinatus (Scheidw.) Engelm. var. *dasyacanthus* (Engelm.) N. P. Taylor

Syn.: *Echinocereus pectinatus* (Scheidw.) Engelm. var. *neomexicanus* (Coult.) L. Benson

Echinocereus polyacanthus Engelm. (1848) var. *polyacanthus*

Echinocereus pseudopectinatus (N. P. Taylor) N. P. Taylor

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- Syn.: *Echinocereus bristolii* W. T. Marshall var. *pseudopectinatus* N. P. Taylor, *Echinocereus pectinatus* (Scheidw.) Engelm. var. *pectinatus sensu* Kearney and Peebles, Arizona Flora, and L. Benson, The Cacti of Arizona and The Cacti of the United States and Canada.
- Echinocereus rigidissimus* (Engelm.) Hort. F. A. Haage.
Syn.: *Echinocereus pectinatus* (Scheidw.) Engelm. var. *rigidissimus* (Engelm.) Engelm. ex Rümpler–Rainbow cactus
- Echinocereus triglochidiatus* Engelm. var. *gonacanthus* (Engelm. & Bigel.) Boiss.
Echinocereus triglochidiatus Engelm. var. *melanacanthus* (Engelm.) L. Benson
Syn.: *Mammillaria aggregata* Engelm.
- Echinocereus triglochidiatus* Engelm. var. *mojavensis* (Engelm.) L. Benson
Echinocereus triglochidiatus Engelm. var. *neomexicanus* (Standl.) Standl. ex W. T. Marshall.
Syn.: *Echinocereus triglochidiatus* Engelm. var. *polyacanthus* (Engelm. 1859 non 1848) L. Benson
Echinocereus triglochidiatus Engelm. var. *triglochidiatus*
- Echinomastus erectocentrus* (Coul.) Britt. & Rose var. *erectocentrus*
Syn.: *Neolloydia erectocentra* (Coul.) L. Benson var. *erectocentra*
- Echinomastus intertextus* (Engelm.) Britt. & Rose Syn.: *Neolloydia intertexta* (Engelm.) L. Benson
Echinomastus johnsonii (Parry) Baxter–Beehive cactus
Syn.: *Neolloydia johnsonii* (Parry) L. Benson
- Epithelantha micromeris* (Engelm.) Weber ex Britt. & Rose
Ferocactus cylindraceus (Engelm.) Orcutt var. *cylindraceus*–Barrel cactus
Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *acanthodes*
- Ferocactus cylindraceus* (Engelm.) Orcutt var. *eastwoodiae* (Engelm.) N. P. Taylor
Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *eastwoodiae* L. Benson; *Ferocactus eastwoodiae* (L. Benson) L. Benson
- Ferocactus cylindraceus* (Engelm.) Orcutt. var. *lecontei* (Engelm.) H. Bravo
Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *lecontei* (Engelm.) Lindsay; *Ferocactus lecontei* (Engelm.) Britt. & Rose
- Ferocactus emoryi* (Engelm.) Orcutt–Barrel cactus
Syn.: *Ferocactus covillei* Britt. & Rose
- Ferocactus wislizenii* (Engelm.) Britt. & Rose–Barrel cactus
Lophocereus schottii (Engelm.) Britt. & Rose–Senita
- Mammillaria grahamii* Engelm. var. *grahamii*
Mammillaria grahamii Engelm. var. *oliviae* (Orcutt) L. Benson
Syn.: *Mammillaria oliviae* Orcutt
- Mammillaria heyderi* Mühlenpf. var. *heyderi*
Syn.: *Mammillaria gummifera* Engelm. var. *applanata* (Engelm.) Benson
- Mammillaria heyderi* Mühlenpf. var. *macdougalii* (Rose) L. Benson
Syn.: *Mammillaria gummifera* Engelm. var. *macdougalii* (Rose) L. Benson; *Mammillaria macdougalii* Rose
- Mammillaria heyderi* Mühlenpf. var. *meiacantha* (Engelm.) L. Benson
Syn.: *Mammillaria gummifera* Engelm. var. *meiacantha* (Engelm.) L. Benson
- Mammillaria lasiacantha* Engelm.
Mammillaria mainiae K. Brand.
Mammillaria microcarpa Engelm.
Mammillaria tetrancistra Engelm.
Mammillaria thornberi Orcutt
Mammillaria viridiflora (Britt. & Rose) Bödeker.
Syn.: *Mammillaria orestra* L. Benson
Mammillaria wrightii Engelm. var. *wilcoxii* (Toumey ex K. Schumann) W. T. Marshall

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- Syn.: *Mammillaria wilcoxii* Toumey
Mammillaria wrightii Engelm. var. *wrightii*
Opuntia acanthocarpa Engelm. & Bigel. var. *acanthocarpa*–Buckhorn cholla
Opuntia acanthocarpa Engelm. & Bigel. var. *coloradensis* L. Benson
Opuntia acanthocarpa Engelm. & Bigel. var. *major* L. Benson
Syn.: *Opuntia acanthocarpa* Engelm. & Bigel. var. *ramosa* Peebles
Opuntia acanthocarpa Engelm. & Bigel. var. *thornberi* (Thornber & Bonker) L. Benson
Syn.: *Opuntia thornberi* Thornber & Bonker
Opuntia arbuscula Engelm.–Pencil cholla
Opuntia basilaris Engelm. & Bigel. var. *aurea* (Baxter) W. T. Marshall–Yellow beavertail
Syn.: *Opuntia aurea* Baxter
Opuntia basilaris Engelm. & Bigel. var. *basilaris*–Beavertail cactus
Opuntia basilaris Engelm. & Bigel. var. *longiareolata* (Clover & Jotter) L. Benson
Opuntia basilaris Engelm. & Bigel. var. *treleasei* (Coult.) Toumey
Opuntia bigelovii Engelm.–Teddy-bear cholla
Opuntia campii ined.
Opuntia canada Griffiths (*O. phaeacantha* Engelm. var. *laevis* X *major* and *O. gilvescens* Griffiths)
Opuntia chlorotica Engelm. & Bigel.–Pancake prickly-pear
Opuntia clavata Engelm.–Club cholla
Opuntia curvospina Griffiths
Opuntia echinocarpa Engelm. & Bigel.–Silver cholla
Opuntia emoryi Engelm.–Devil cholla
Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *stanlyi*
Opuntia engelmannii Salm-Dyck ex Engelm. var. *engelmannii*–Engelmann’s prickly-pear
Syn.: *Opuntia phaeacantha* Engelm. var. *discata* (Griffiths) Benson & Walkington
Opuntia engelmannii Salm-Dyck ex Engelm. var. *flavospina* (L. Benson) Parfitt & Pinkava
Syn.: *Opuntia phaeacantha* Engelm. var. *flavispina* L. Benson
Opuntia erinacea Engelm. & Bigel. var. *erinacea*–Mohave prickly-pear
Opuntia erinacea Engelm. & Bigel. var. *hystricina* (Engelm. & Bigel.) L. Benson
Syn.: *Opuntia hystricina* Engelm. & Bigel.
Opuntia erinacea Engelm. & Bigel. var. *ursina* (Weber) Parish–Grizzly bear prickly-pear
Syn.: *Opuntia ursina* Weber
Opuntia erinacea Engelm. & Bigel. var. *utahensis* (Engelm.) L. Benson
Syn.: *Opuntia rhodantha* Schum.
Opuntia fragilis Nutt. var. *brachyarthra* (Engelm. & Bigel.) Coult.
Opuntia fragilis Nutt. var. *fragilis*–Little prickly-pear
Opuntia fulgida Engelm. var. *fulgida*–Jumping chain-fruit cholla
Opuntia fulgida Engelm. var. *mammillata* (Schott) Coult.
Opuntia imbricata (Haw.) DC.–Tree cholla
Opuntia X kelvinensis V. & K. Grant pro sp.
Syn.: *Opuntia kelvinensis* V. & K. Grant
Opuntia kleiniae DC. var. *tetracantha* (Toumey) W. T. Marshall
Syn.: *Opuntia tetrancistra* Toumey
Opuntia kunzei Rose.
Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *kunzei* (Rose) L. Benson; *Opuntia kunzei* Rose var. *wrightiana* (E. M. Baxter) Peebles; *Opuntia wrightiana* E. M. Baxter
Opuntia leptocaulis DC.–Desert Christmas cactus, Pencil cholla

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- Opuntia littoralis* (Engelm.) Cockl. var. *vaseyi* (Coult.) Benson & Walkington
- Opuntia macrocentra* Engelm.–Purple prickly-pear
Syn.: *Opuntia violacea* Engelm. ex B. D. Jackson var. *macrocentra* (Engelm.) L. Benson; *Opuntia violacea* Engelm. ex B. D. Jackson var. *violacea*
- Opuntia macrorhiza* Engelm. var. *macrorhiza*–Plains prickly-pear
Syn.: *Opuntia plumbea* Rose
- Opuntia macrorhiza* Engelm. var. *pottsii* (Salm-Dyck) L. Benson
- Opuntia martiniana* (L. Benson) Parfitt
Syn.: *Opuntia littoralis* (Engelm.) Cockerell var. *martiniana* (L. Benson) L. Benson; *Opuntia macrocentra* Engelm. var. *martiniana* L. Benson
- Opuntia nicholii* L. Benson–Navajo Bridge prickly-pear
- Opuntia parishii* Orcutt.
Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *parishii* (Orcutt) L. Benson
- Opuntia phaeacantha* Engelm. var. *laevis* (Coult.) L. Benson
Syn.: *Opuntia laevis* Coult.
- Opuntia phaeacantha* Engelm. var. *major* Engelm.
- Opuntia phaeacantha* Engelm. var. *phaeacantha*
- Opuntia phaeacantha* Engelm. var. *superbospina* (Griffiths) L. Benson
- Opuntia polyacantha* Haw. var. *juniperina* (Engelm.) L. Benson
- Opuntia polyacantha* Haw. var. *rufispina* (Engelm.) L. Benson
- Opuntia polyacantha* Haw. var. *trichophora* (Engelm. & Bigel.) L. Benson
- Opuntia pulchella* Engelm.–Sand cholla
- Opuntia ramosissima* Engelm.–Diamond cholla
- Opuntia santa-rita* (Griffiths & Hare) Rose–Santa Rita prickly-pear
Syn.: *Opuntia violacea* Engelm. ex B. D. Jackson var. *santa-rita* (Griffiths & Hare) L. Benson
- Opuntia spinosior* (Engelm.) Toumey–Cane cholla
- Opuntia versicolor* Engelm.–Staghorn cholla
- Opuntia vivipara* Engelm
- Opuntia whipplei* Engelm. & Bigel. var. *multigeniculata* (Clokey) L. Benson
- Opuntia whipplei* Engelm. & Bigel. var. *whipplei*–Whipple cholla
- Opuntia wigginsii* L. Benson
- Pediocactus papyracanthus* (Engelm.) L. Benson Grama grass cactus
Syn.: *Toumeyia papyracanthus* (Engelm.) Britt. & Rose
- Pediocactus simpsonii* (Engelm.) Britt & Rose var. *simpsonii*
- Peniocereus greggii* (Engelm.) Britt. & Rose var. *greggii*–Night-blooming cereus
Syn.: *Cereus greggii* Engelm.
- Peniocereus greggii* (Engelm.) Britt & Rose var. *transmontanus*–Queen-of-the-Night
- Peniocereus striatus* (Brandege) Buxbaum.
Syn.: *Neoevansia striata* (Brandege) Sanchez-Mejorada; *Cereus striatus* Brandege; *Wilcoxia diguetii* (Webber) Peebles
- Sclerocactus parviflorus* Clover & Jotter var. *intermedius* (Peebles) Woodruff & L. Benson
Syn.: *Sclerocactus intermedius* Peebles
- Sclerocactus parviflorus* Clover & Jotter var. *parviflorus*
Syn.: *Sclerocactus whipplei* (Engelm. & Bigel.) Britt. & Rose var. *roseus* (Clover) L. Benson
- Sclerocactus pubispinus* (Engelm.) L. Peebles
- Sclerocactus spinosior* (Engelm.) Woodruff & L. Benson
Syn.: *Sclerocactus pubispinus* (Engelm.) L. Benson var. *sileri* L. Benson

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Sclerocactus whipplei (Engelm. & Bigel.) Britt. & Rose

Stenocereus thurberi (Engelm.) F. Buxbaum—Organ pipe cactus

Syn.: *Cereus thurberi* Engelm.; *Lemairocereus thurberi* (Engelm.) Britt. & Rose

CAMPANULACEAE Bellflower Family

Lobelia cardinalis L. ssp. *graminea* (Lam.) McVaugh—Cardinal flower

Lobelia fenestralis Cav.—Leafy lobelia

Lobelia laxiflora H. B. K. var. *angustifolia* A. DC.

CAPPARACEAE Cappar Family [=Capparidaceae]

Cleome multicaulis DC.—Playa spiderflower

CHENOPODIACEAE Goosefoot Family

Atriplex hymenelytra (Torr.) Wats.

CRASSULACEAE Stonecrop Family

Dudleya arizonica (Nutt.) Britt. & Rose

Syn.: *Echeveria pulverulenta* Nutt. ssp. *arizonica* (Rose) Clokey

Dudleya saxosa (M.E. Jones) Britt. & Rose ssp. *collomiae* (Rose) Moran

Syn.: *Echeveria collomiae* (Rose) Kearney & Peebles

Graptopetalum bartramii Rose

Syn.: *Echeveria bartramii* (Rose) K. & P.

Graptopetalum bartramii Rose—Bartram's stonecrop, Bartram's live-forever

Syn.: *Echeveria bartramii* (Rose) Kearney & Peebles

Graptopetalum rusbyi (Greene) Rose

Syn.: *Echeveria rusbyi* (Greene) Nels. & Macbr.

Sedum cockerellii Britt.

Sedum griffithsii Rose

Sedum lanceolatum Torr.

Syn.: *Sedum stenopetalum* Pursh

Sedum rhodanthum Gray

Sedum stelliforme Wats.

CROSSOSOMATAACEAE Crossosoma Family

Apacheria chiricahuensis C. T. Mason—Chiricahua rock flower

CUCURBITACEAE Gourd Family

Tumamoca macdougallii Rose—Tumamoc globeberry

EUPHORBIACEAE Spurge Family

Euphorbia plummerae Wats.—Woodland spurge

Sapium biloculare (Wats.) Pax—Mexican jumping-bean

FABACEAE Pea Family [=Leguminosae]

Astragalus corbrensis Gray var. *maguirei* Kearney

Astragalus cremnophyllax Barneby var. *myriorrhaphis* Barneby—Cliff milk-vetch

Astragalus hypoxylus Wats.—Huachuca milk-vetch

Astragalus nutriosensis Sanderson—Nutrioso milk-vetch

Astragalus xiphoides (Barneby) Barneby—Gladiator milk-vetch

Cercis occidentalis Torr.—California redbud

Errazurizia rotundata (Woot.) Barneby

Syn.: *Parryella rotundata* Woot.

Lysiloma microphylla Benth. var. *thornberi* (Britt. & Rose) Isely—Feather bush

Syn.: *Lysiloma thornberi* Britt. & Rose

Phaseolus supinus Wiggins & Rollins

FOUQUIERIACEAE Ocotillo Family

Fouquieria splendens Engelm.—Ocotillo, coach-whip, monkey-tail

GENTIANACEAE Gentian Family

Gentianella wislizenii (Engelm.) J. Gillett

Syn.: *Gentiana wislizenii* Engelm.

LAMIACEAE Mint Family

Hedeoma diffusum Green—Flagstaff pennyroyal

Salvia dorrii ssp. *mearnsii*

Trichostema micranthum Gray

LILIACEAE Lily Family

Allium acuminatum Hook.

Allium bigelovii Wats.

Allium biseptum Wats. var. *palmeri* (Wats.) Cronq.

Syn.: *Allium palmeri* Wats.

Allium cernuum Roth. var. *neomexicanum* (Rydb.) Macbr.—Nodding onion

Allium cernuum Roth. var. *obtusum* Ckll.

Allium geveyi Wats. var. *geveyi*

Allium geveyi Wats. var. *tenerum* Jones

Allium kunthii Don

Allium macropetalum Rydb.

Allium nevadense Wats. var. *cristatum* (Wats.) Ownbey

Allium nevadense Wats. var. *nevadense*

Allium parishii Wats.

Allium plummerae Wats.

Allium rhizomatum Woot. & Standl. Incl.: *Allium glandulosum* Link & Otto *sensu* Kearney & Peebles

Androstephium breviflorum Wats.—Funnel-lily

Calochortus ambiguus (Jones) Ownbey

Calochortus aureus Wats.

Syn.: *Calochortus nuttallii* Torr. & Gray var. *aureus* (Wats.) Ownbey

Calochortus flexuosus Wats.—Straggling mariposa

Calochortus gunnisonii Wats.

Calochortus kennedyi Porter var. *kennedyi*—Desert mariposa

Calochortus kennedyi Porter var. *munzii* Jeps.

Dichelostemma pulchellum (Salisbi) Heller var. *pauciflorum* (Torr.) Hoover

Disporum trachycarpum (Wats.) Benth. & Hook. var. *subglabrum* Kelso

Disporum trachycarpum (Wats.) Benth. & Hook. var. *trachycarpum*

Echeandia flavescens (Schultes & Schultes) Cruden

Syn.: *Anthericum torreyi* Baker

Eremocrinum albomarginatum Jones

Fritillaria atropurpurea Nutt.

Hesperocallis undulata Gray—Ajo lily

Lilium parryi Wats.—Lemon lily

Lilium umbellatum Pursh

Maianthemum racemosum (L.) Link. ssp. *amplexicaule* (Nutt.) LaFrankie

Syn.: *Smilacina racemosa* (L.) Desf. var. *amplexicaulis* (Nutt.) Wats.

Maianthemum racemosum (L.) Link ssp. *racemosum*—False Solomon's seal

Syn.: *Smilacina racemosa* (L.) Desf. var. *racemosa*; *Smilacina racemosa* (L.) Desf. var. *cylindrata* Fern.

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Maianthemum stellatum (L.) Link

Syn.: *Smilacina stellata* (L.) Desf.–Starflower

Milla biflora Cav.–Mexican star

Nothoscordum texanum Jones

Polygonatum cobrense (Woot. & Standl.) Gates

Streptopus amplexifolius (L.) DC.–Twisted stalk

Triteleia lemmonae (Wats.) Greene

Triteleopsis palmeri (Wats.) Hoover

Veratrum californicum Durand.–False hellebore

Zephyranthes longifolia Hemsl.–Plains rain lily

Zigadenus elegans Pursh–White camas, alkali-grass

Zigadenus paniculatus (Nutt.) Wats.–Sand-corn

Zigadenus virescens (H. B. K.) Macbr.

MALVACEAE Mallow Family

Abutilon parishii Wats.–Tucson Indian mallow

Abutilon thurberi Gray–Baboquivari Indian mallow

NOLINACEAE Nolina

Dasyllirion wheeleri Wats.–Sotol, desert spoon

Nolina bigelovii (Torr.) Wats.–Bigelow's nolina

Nolina microcarpa Wats.–Beargrass, sacahuista

Nolina parryi Wats.–Parry's nolina

Nolina texana Wats. var. *compacta* (Trel.) Johnst.– Bunchgrass

ONAGRACEAE Evening Primrose Family

Camissonia exilis (Raven) Raven

ORCHIDACEAE Orchid Family

Calypso bulbosa (L.) Oakes var. *americana* (R. Br.) Luer

Coeloglossum viride (L.) Hartmann var. *virescens* (Muhl.) Luer

Syn.: *Habenaria viridis* (L.) R. Br. var. *bracteata* (Muhl.) Gray

Corallorhiza maculata Raf.–Spotted coral root

Corallorhiza striata Lindl.–Striped coral root

Corallorhiza wisteriana Conrad–Spring coral root

Epipactis gigantea Douglas ex Hook.–Giant helleborine

Goodyera oblongifolia Raf.

Goodyera repens (L.) R. Br.

Hexalectris spicata (Walt.) Barnhart–Crested coral root

Listera convallarioides (Swartz) Nutt.–Broad-leaved twayblade

Malaxis corymbosa (S. Wats.) Kuntze

Malaxis ehrenbergii (Reichb. f.) Kuntze

Malaxis macrostachya (Lexarza) Kuntze–Mountain malaxia

Syn.: *Malaxis soulei* L. O. Williams

Malaxis tenuis (S. Wats.) Ames

Platanthera hyperborea (L.) Lindley var. *gracilis* (Lindley) Luer

Syn.: *Habenaria sparsiflora* Wats. var. *laxiflora* (Rydb.) Correll

Platanthera hyperborea (L.) Lindley var. *hyperborea*–Northern green orchid

Syn.: *Habenaria hyperborea* (L.) R. Br.

Platanthera limosa Lindl.–Thurber's bog orchid

Syn.: *Habenaria limosa* (Lindley) Hemsley

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- Platanthera sparsiflora* (Wats.) Schlechter var. *ensifolia* (Rydb.) Luer
Platanthera sparsiflora (Wats.) var. *laxiflora* (Rydb.) Correll
Platanthera sparsiflora (Wats.) Schlechter var. *sparsiflora*—Sparsely-flowered bog orchid
Syn.: *Habenaria sparsiflora* Wats.
Platanthera stricta Lindl.—Slender bog orchid
Syn.: *Habenaria saccata* Greene; *Platanthera saccata* (Greene) Hulten
Platanthera viridis (L.) R. Br. var. *bracteata* (Muhl.) Gray—Long-bracted habenaria
Spiranthes michauxiana (La Llave & Lex.) Hemsl.
Spiranthes parasitica A. Rich. & Gal.
Spiranthes romanzoffiana Cham.—Hooded ladies tresses

PAPAVERACEAE Poppy Family

- Arctomecon californica* Torr. & Frém.—Golden-bear poppy, Yellow-flowered desert poppy

PINACEAE Pine Family

- Pinus aristata* Engelm.—Bristlecone pine

POLYGONACEAE Buckwheat Family

- Eriogonum apachense* Reveal
Eriogonum capillare Small
Eriogonum mortonianum Reveal—Morton's buckwheat
Eriogonum ripleyi J. T. Howell—Ripley's wild buckwheat, Frazier's Well buckwheat
Eriogonum thompsonae Wats. var. *atwoodii* Reveal—Atwood's buckwheat

PORTULACAEAE Purslane Family

- Talinum humile* Greene—Pinos Altos flame flower
Talinum marginatum Greene
Talinum validulum Greene—Tusayan flame flower

PRIMULACEAE Primrose Family

- Dodecatheon alpinum* (Gray) Greene ssp. *majus* H. J. Thompson
Dodecatheon dentatum Hook. ssp. *ellisiae* (Standl.) H. J. Thompson
Dodecatheon pulchellum (Raf.) Merrill
Primula hunnewellii Fern.
Primula rusbyi Greene
Primula specuicola Rydb.

RANUNCULACEAE Buttercup Family

- Aquilegia caerulea* James ssp. *pinetorum* (Tidest.) Payson—Rocky Mountain Columbine
Aquilegia chrysantha Gray
Aquilegia desertorum (Jones) Ckll.—Desert columbine, Mogollon columbine
Aquilegia elegantula Greene
Aquilegia longissima Gray—Long Spur Columbine
Aquilegia micrantha Eastw.
Aquilegia triternata Payson

ROSACEAE Rose Family

- Rosa stellata* Woot.—ssp. *abyssa* A. Phillips Grand Canyon rose
Vauquelinia californica (Torr.) Sarg. ssp. *pauciflora* (Standl.) Hess & Henrickson—Few-flowered Arizona rose-wood

SCROPHULARIACEAE Figwort Family

- Castilleja mogollonica* Pennell
Penstemon albomarginatus Jones
Penstemon bicolor (Brandeg.) Clokey & Keck ssp. *roseus* Clokey & Keck

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Penstemon clutei A. Nels.

Penstemon distans N. Holmgren–Mt. Trumbull beardtongue

Penstemon linarioides spp. *maguirei*

SIMAROUBACEAE Simarouba Family

Castela emoryi (Gray) Moran & Felger–Crucifixion thorn

Syn.: *Holacantha emoryi* Gray

STERCULIACEAE Cacao Family

Fremontodendron californicum (Torr.) Coville– Flannel bush

- C. ~~Salvage Assessed Protected Native Plants. The following list includes those species of native plants that are not included in either the highly safeguarded or salvage restricted category but have a sufficient value if salvaged to support the cost of salvage.~~ Salvage assessed native plants as prescribed in A.R.S. § 3-903(B)(3) that require a permit for removal:

BIGNONIACEAE Bignonia Family

Chilopsis linearis (Cav.) Sweet var. *arcuata* Fosberg–Desert-willow

Chilopsis linearis (Cav.) Sweet var. *glutinosa* (Engelm.) Fosberg

FABACEAE Pea Family [=Leguminosae]

Cercidium floridum Benth.–Blue palo verde

Cercidium microphyllum (Torr.) Rose & Johnst.– Foothill palo verde

Olneya tesota Gray–Desert ironwood

Prosopis glandulosa Torr. var. *glandulosa*–Honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *glandulosa* (Torr.) Ckll.

Prosopis glandulosa Torr. var. *torreyana* (Benson) M. C. Johnst.–Western honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *torreyana* Benson

Prosopis pubescens Benth.–Screwbean mesquite

Prosopis velutina Woot.–Velvet mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *velutina* (Woot.) Sarg.

Psoralea spinosa (Gray) Barneby–Smoke tree.

Syn.: *Dalea spinosa* Gray

- D. ~~Harvest Restricted Protected Native Plants. The following list includes those species of native plants that are not included in the highly safeguarded category but are subject to excessive harvesting or overcutting because of their intrinsic value.~~ Harvest restricted native plants as prescribed at A.R.S. § 3-903(B)(4) that require a permit to cut or remove the plants for their by-products, fibers, or wood:

AGAVACEAE Agave Family (including Nolinaceae)

Nolina bigelovii (Torr.) Wats.–Bigelow's nolina

Nolina microcarpa Wats.–Beargrass, sacahuista

Nolina parryi Wats.–Parry's nolina

Nolina texana Wats. var. *compacta* (Trel.) Johnst.– Bunchgrass

Yucca baccata Torr. var. *baccata*–Banana yucca

Yucca schidigera Roezl.–Mohave yucca, Spanish dagger

FABACEAE Pea Family [=Leguminosae]

Olneya tesota Gray–Desert ironwood

Prosopis glandulosa Torr. var. *glandulosa*–Honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *glandulosa* (Torr.) Ckll.

Prosopis glandulosa Torr. var. *torreyana* (Benson) M. C. Johnst.–Western honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *torreyana* Benson

Prosopis pubescens Benth.–Screwbean mesquite

Prosopis velutina Woot.–Velvet mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *velutina* (Woot.) Sarg.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 45. BOARD OF RESPIRATORY CARE EXAMINERS

[R08-67]

PREAMBLE

1. Sections Affected

R4-45-102
R4-45-105
R4-45-201
R4-45-204
R4-45-205
R4-45-207
R4-45-210
R4-45-211
R4-45-213
R4-45-214
R4-45-301

Rulemaking Action

Amend
New Section
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 32-3504(A)(2)

Implementing statute: A.R.S. §§ 32-3504(A)(9), 32-3506(C)(4), 32-3521, 32-3523, 32-3524, 32-3525, 32-3526, 32-3554

3. The effective date for the rules:

May 3, 2008

4. List of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 13 A.A.R. 3766, November 9, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 4280, December 7, 2007

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Mary Hauf Martin

Address: Board of Respiratory Care Examiners
1400 W. Washington St., Ste. 200
Phoenix, AZ 85007

Telephone: (602) 542-5995

Fax: (602) 542-5900

E-mail: Mary@rb.state.az.us

6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

The Board is moving towards electronic communication with applicants and licensees. As a result, it is necessary to amend the rules to account for differences between electronic and non-electronic communication. The Board is also making clarifications regarding temporary licensees and standards of professional conduct. To ensure that the Board has all information relevant to its decision to grant or deny a license to an applicant, the Board is adding a subsection requiring an applicant to inform the Board of any change in non-contact information submitted on the application for licensure. Other changes will make the rules more clear, concise, and understandable.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

Notices of Final Rulemaking

9. The summary of the economic, small business, and consumer impact:

This rulemaking, which is designed to facilitate electronic communication between the Board and applicants and licensees, will have moderate economic impact. The Board incurred significant cost to make it possible for applicants and licensees to complete and submit forms electronically and to amend its rules but will benefit from reduced costs to print, assemble, and mail forms. Applicants and licensees will also have reduced costs associated with mailing materials to the Board. Both the Board and applicants and licensees will benefit from more timely communication.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

In addition to minor, clarifying, and non-substantive changes made between the proposed and final rules, the Board:

1. Corrected a clerical error by deleting from R4-45-105(A) the two forms that deal with continuing education. These forms are not available on the Board's web site. This change is not substantial because the forms remain available;
2. Added the requirement that an applicant provide evidence of citizenship, alien status, legal residency, or lawful presence in the U.S. This change is necessary to make the rules consistent with A.R.S. § 1-501, which was added during the 2007 legislative session.
3. Clarified R4-45-207 to deal only with renewal and late renewal of a license. The Board will do another rule-making addressing reinstatement following license revocation.
4. Clarified in R4-45-213 that a temporary license is extended if a request is made and certain conditions are met.

11. A summary of the comments made regarding the rules and the agency response to them:

An oral proceeding was held on January 17, 2008. No comments were made regarding the rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 45. BOARD OF RESPIRATORY CARE EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section	
R4-45-102.	Fees
<u>R4-45-105.</u>	<u>Electronic Communication</u>

ARTICLE 2. LICENSURE

Section	
R4-45-201.	Application
R4-45-204.	Application by a Foreign-trained Applicant
R4-45-205.	Application Based on Licensure by Another State
R4-45-207.	Renewal; Reinstatement
R4-45-210.	Criteria for Approved Continuing Education
R4-45-211.	Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement
R4-45-213.	Temporary Licensure
R4-45-214.	Standards of Professional Conduct

ARTICLE 3. HEARINGS

Section	
R4-45-301.	Hearing Procedures

Notices of Final Rulemaking

ARTICLE 1. GENERAL PROVISIONS

R4-45-102. Fees

- A. Under the authority provided by A.R.S. § 32-3526 or other specified statutes, the Board establishes and shall collect the following fees:
1. Application for a license, \$100;
 2. Application based on a diploma from a foreign respiratory therapy school, \$200;
 3. Initial license, \$120;
 4. Biennial renewal of a license, \$120;
 5. ~~Renewal of~~ Extension to a temporary license, \$75;
 6. Verifying an Arizona license to another state:
 - a. Current valid license, \$25;
 - b. Expired license, \$50;
 7. Duplicate license or duplicate wallet license card, \$25;
 8. Copy of the Board's Respiratory Care Practitioner Register compiled under A.R.S. § 32-3504(A)(7):
 - a. Noncommercial, \$25;
 - b. Commercial, \$25 or the amount allowed under A.R.S. § 39-121.03(A), whichever is greater;
 9. Insufficient funds check submitted to the Board as payment of any fee, \$25;
 10. Fingerprint fee, authorized by A.R.S. § 41-1750(L), in the form of a remitted by credit card, certified check, or money order, \$50; and
 11. Copy of the audiotape of a hearing under A.R.S. § 41-1092.07(E), \$25.
- B. With the exception of the fingerprint fee specified in subsection (A)(10), all fees shall be remitted to the Board of Respiratory Examiners by personal check, credit card, certified check, or money order. All fees remitted to the Board are nonrefundable, except as provided in A.R.S. § 41-1077.

R4-45-105. Electronic Communication

- A. To facilitate communication between the Board and an applicant, licensee, or continuing education provider, the Board shall make the following forms available on its web site:
1. Application for licensure.
 2. Verification of licensure.
 3. License renewal application.
 4. Request for an extension to a temporary license, and
 5. Notice of change of address.
- B. After completing a form that is available on the Board's web site, an applicant or licensee shall submit the form to the Board electronically or by mail or personal delivery.
- C. An applicant or licensee that submits a form to the Board electronically shall use mail or personal delivery to submit or have submitted on behalf of the applicant other documents required under this Chapter.
- D. An applicant or licensee that does not have access to the Board's web site may request from the Board a printed copy of any form listed in subsection (A).

ARTICLE 2. LICENSURE

R4-45-201. Application

- A. In addition to meeting the qualifications listed in A.R.S. § 32-3523(A), an applicant for a license to practice as a respiratory care practitioner shall submit the following information on ~~a~~ the Board's license application form ~~furnished by the Board:~~
1. Applicant's full name and Social Security number;
 2. Applicant's current mailing, ~~and~~ permanent, and e-mail addresses;
 3. Current employer's name, address, and telephone number;
 4. Current employment position and beginning date of employment;
 5. Current supervisor's name and telephone number;
 6. Applicant's area of care or specialty;
 7. Applicant's birth date;
 8. Applicant's home and work telephone numbers;
 9. Any name by which the applicant has ever been known. The applicant shall submit documentation of name change if the applicant is applying for licensure under a name different from that on the applicant's credentials, educational degree, or diploma;
 10. A statement of the facts entitling the applicant to take the CRT examination or to receive a license without examination under R4-45-206;
 11. Name of any state or province in which the applicant has been granted a certification, registration, or license as a respiratory care practitioner; including certificate number, date issued, expiration date, and a statement whether that cer-

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tificate, registration, or license has ever been the subject of discipline, censure, probation, practice restriction, suspension, revocation, or cancellation;

12. A statement whether the applicant has ever been denied a professional license or certificate or the privilege of taking an examination by a governing licensing authority and, if the answer is yes, a complete explanation of the denial including date, state or province, and a copy of any order issued;
13. A statement whether the applicant is the subject of any pending disciplinary action that is directly or indirectly related to the practice of respiratory therapy and, if the answer is yes, a complete explanation, including date, state or province, and a copy of any order issued;
14. A statement whether the applicant has ever voluntarily surrendered a professional license and, if the answer is yes, a complete explanation, including dates, state or province, and a copy of any order issued;
15. A statement whether the applicant has ever filed an application for a respiratory care practitioner license in Arizona and, if the answer is yes, the date;
16. A statement whether the applicant has been enrolled in or committed to a substance-abuse or alcohol-treatment program in the past 10 years and, if the answer is yes, a complete explanation, including date, place, and a copy of any documentation of completion of the program;
17. Except for a minor traffic violation, a statement whether the applicant has ever been convicted of, pled no contest (nolo contendere) to, entered into any agreement concerning an arrest or charge (even if the agreement resulted in a dismissal or expungement of record), or has an outstanding arrest or charge for any violation of any law of any state of the United States, or a foreign country and, if the answer is yes, a complete explanation, including place, date, and a copy of any pertinent documentation such as a court order or plea agreement;
18. A statement whether the applicant has had an intemperance to drugs or alcohol within the last 10 years and, if the answer is yes, a complete explanation;
19. Applicant's physical description, including height, weight, and eye and hair color;
20. Highest level of education completed by the applicant;
21. Evidence of the applicant's U.S. citizenship, alien status, legal residency, or lawful presence in the U.S.;
- ~~21-22.~~ Consistent with the Board's authority under A.R.S. § 32-3522(B)(4), other information or documentation the Board determines is necessary to evaluate the applicant fully; ~~and~~
- ~~22-23.~~ A record or documentation release; ~~and the applicant's-~~
24. Applicant's sworn statement verifying the truthfulness of certification that the information provided by the applicant is true and complete and that the applicant has not engaged in any act prohibited by Arizona law or ~~Board rules~~ this Chapter.

B. An applicant shall submit or have submitted on the applicant's behalf the following with the license application form:

- ~~1. 2" by 2" color, bust photograph of the applicant taken within the last 60 days and signed on the back by the applicant;~~
- ~~2. Photocopy of the applicant's diploma awarded upon successful completion of an approved respiratory therapy training program or letter of completion from the registrar of an approved respiratory therapy training program that provides the date of the applicant's successful completion;~~
- ~~3-1.~~ If NBRC-certified or registered, a ~~photocopy~~ copy of the applicant's:
 - ~~a. NBRC-issued certification or registration; or~~
 - ~~b. CRT examination results;~~
- ~~2.~~ If not NBRC-certified or registered, a copy of the applicant's diploma awarded upon successful completion of an approved respiratory therapy training program or letter of completion from the registrar of an approved respiratory therapy training program that provides the date of the applicant's successful completion;
- ~~4-3.~~ If ever licensed as a respiratory care practitioner in another state, ~~a verification of license, completed, signed, and authenticated by seal or notarization by the board of each state in which the applicant holds or has held certification, licensure, or registration as a respiratory care practitioner~~ the information specified in R4-45-205;
- ~~5-4.~~ If foreign-trained, ~~a certified copy of all course transcripts and complete, descriptive information concerning the applicant's course of study delivered to the Board by the foreign respiratory therapy school and a photocopy of the applicant's diploma from the foreign respiratory therapy school submitted by the applicant~~ the information specified in R4-45-204;
- ~~6-5.~~ The fee required under R4-45-102(A)(1); ~~and~~
- ~~7-6.~~ A full set of fingerprints submitted on a card provided by the Board for a state and federal criminal background check along with ~~a certified check or money order in the amount~~ fee prescribed at R4-45-102(A)(10); ~~and~~
- ~~8. A photocopy of the applicant's CRT examination results.~~

C. The Board shall issue a temporary license to an applicant who is qualified under R4-45-213.

D. An applicant shall inform the Board in writing of ~~any~~ a change in the applicant's address ~~of record or other contact information~~ within 10 days from the date of the change.

E. An applicant shall inform the Board immediately, by fax or e-mail, of the following:

1. A change in any non-contact information provided on the license application.
2. A change in the applicant's employment status and the reason for the change, or

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3. Other information that a reasonable person would believe is relevant to the Board's decision to grant or deny a license to the applicant.

R4-45-204. Application by a Foreign-trained Applicant

An applicant who has a diploma from a respiratory therapy school located outside the United States shall:

1. ~~cause~~ Cause the school from which the diploma was issued to deliver to the Board a certified copy of course transcripts and other information concerning the applicant's course of study sufficient to enable the Board to determine whether the course of study is equivalent to a training program approved under R4-45-202, and
2. Submit a photocopy of the applicant's diploma from the foreign respiratory therapy school.

R4-45-205. Application Based on Licensure ~~By~~ by Another State

~~A.~~ If an application for a license is based on licensure by another state, the applicant shall cause the state that issued the license to deliver to the Board:

1. ~~a~~ A certified copy of the license; ~~and a~~
2. A ~~Verification~~ verification of License license regarding the status of the applicant's license in that state, completed, signed, and authenticated by seal or notarization by the Board of the state issuing the license; and

~~B.~~ An applicant shall cause the state in which the applicant is licensed to deliver to the Board either

3. Either a copy of the results of the CRT examination or a copy of another examination administered to the applicant, the results of the other examination, and any information necessary to enable the Board to determine whether the other examination is equivalent to the CRT examination.

R4-45-207. ~~Renewal; Reinstatement~~

A. A respiratory care practitioner's first license expires on the licensee's second birthday following issuance of the license. Thereafter, a respiratory care practitioner's license expires every other year on the licensee's birthday.

B. To apply for renewal of a license, a licensee shall:

1. Complete a license renewal application form and provide the following information:
 - a. Applicant's full name;
 - b. Applicant's Arizona license number;
 - c. Applicant's ~~street or mailing~~ permanent, and e-mail ~~address~~ addresses and telephone number;
 - d. Applicant's highest educational degree;
 - e. Applicant's employment status;
 - f. Applicant's principal field of employment;
 - g. Current employer's name and address;
 - h. Current supervisor's name and telephone number;
 - i. Applicant's physical description, including height, weight, and eye and hair color;
 - j. A statement whether, since the time of last application, the applicant:
 - i. Has been arrested for, has pled guilty or no contest to, or has been convicted of a felony, misdemeanor, or undesignated offense, and if the answer is yes, a complete explanation, including place, date, charge, and a copy of any pertinent documentation such as a court order or plea agreement;
 - ii. Has been arrested for a traffic violation that resulted in a fine greater than \$150, and if the answer is yes, a complete explanation, including date, offense, and a copy of any pertinent documentation such as a court order;
 - iii. Has been named in a civil or malpractice lawsuit relating to the applicant's employment as a respiratory care practitioner, and if the answer is yes, a complete explanation;
 - iv. Has been or is subject to any disciplinary action, consent order, or settlement regarding the applicant's license in any jurisdiction, and if the answer is yes, a complete explanation;
 - v. Has abused illegal substances, prescription drugs, or alcohol or been enrolled or committed to a substance-abuse or alcohol-treatment program, and if the answer is yes, a complete explanation, including date, place, and copy of any documentation of program completion; and
 - vi. Has been disciplined, suspended, or terminated from employment as a respiratory care practitioner, and if the answer is yes, a complete explanation; ~~and~~
 - k. A statement of whether the applicant is in compliance with all federal and state law regarding storage, transfer, and access to medical records;
 - l. Evidence of the applicant's U.S. citizenship, alien status, legal residency, or lawful presence in the U.S.; and
 - ~~k.m.~~ The applicant's sworn statement verifying the truthfulness of certification that the information provided is true and complete;
2. ~~Attach a 2" by 2" color, bust photograph of the applicant taken within the last 60 days and signed on the back by the applicant;~~
- 3-2. Pay the renewal fee prescribed in R4-45-102(A)(4); and
- 4-3. Complete the required continuing education units.

C. The Board shall notify a licensee ~~by mail at the licensee's address of record of:~~

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1. Need to renew the licensee's license,
 2. Expiration of the licensee's license, and
 3. Audit of the licensee's continuing education records.
- D. If a license expires because it is not renewed timely, the former licensee may apply ~~to have the license reinstated for late renewal~~ within two years from the date of expiration. To apply for ~~reinstatement~~ late renewal, the former licensee shall comply with subsection (B).
- E. ~~If an expired license is not reinstated within two years from the date of expiration a former licensee does not apply for late renewal under subsection (D),~~ the former licensee may obtain a new license only by applying as a new applicant.
- F. Misrepresentation of information on the license renewal application form or of compliance with the continuing education requirement in R4-45-208 constitutes grounds for disciplinary action.

R4-45-210. Criteria for Approved Continuing Education

- A. The Board shall approve for CEUs a continuing education that meets the following criteria:
1. The content of the continuing education is relevant to the scope of practice of respiratory care as defined in A.R.S. § 32-3501(5),
 2. At least 2/3 of the continuing education hours relate to clinical practice,
 3. The non-clinical continuing education hours cover:
 - a. Activities relevant to specialized aspects of respiratory care, such as education, supervision, and management;
 - b. Health care cost containment or cost management;
 - c. Preventative health services and health promotion;
 - d. Required abuse reporting; or
 - e. Other subject matter required by statute or rule to be included in continuing education for a licensed health professional, and
 4. The faculty who provide the continuing education are knowledgeable in the continuing education subject matter as evidenced by:
 - a. A degree from an accredited college or university and verifiable experience in the subject matter, or
 - b. Teaching and clinical experience in the same or similar subject matter.
- B. A continuing education provider that wishes to grant CEUs shall apply to the Board using an application, which is available from the Board, ~~that provides~~ and provide the following information:
1. List of educational objectives;
 2. Description of the teaching methods, for example: lecture, seminar, audio-visual materials, or simulation;
 3. Description of the manner in which participants will be involved in the learning activities; and
 4. Names and qualifications of all faculty.
- C. A continuing education provider shall maintain a record of who attended each continuing education for three years.
- D. A continuing education provider shall provide documentation of attendance to each participant that includes:
1. ~~the~~ The participant's name,
 2. ~~and~~ The participant's respiratory care practitioner license number,
 3. Title of the continuing education ~~title~~,
 4. ~~number~~ Number of CEUs earned,
 5. ~~date~~ Date or dates of attendance, and
 6. ~~name~~ Name and address of the continuing education provider.

R4-45-211. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement

~~When notice of the need to renew a license is provided, the~~ The Board shall also provide notice of an audit of continuing education records to a random sample of licensees. A licensee subject to a continuing education audit ~~at the time of license renewal~~ shall submit documentation that demonstrates compliance with the continuing education requirement ~~at the same time the licensee submits the license renewal application form required under R4-45-207~~ within the time specified in the audit notice. If the licensee fails to submit ~~the license renewal application form and~~ documentation that demonstrates compliance with the continuing education requirement on or before the date of license expiration, ~~the license expires specified in the audit notice, the Board shall provide written notice of intent to revoke the license issued to the licensee.~~

R4-45-213. Temporary Licensure

- A. To be considered for a temporary license, an applicant shall submit a license application package, as described in R4-45-201, and pay the application fee. The Board shall issue a temporary license, valid for eight months, to the applicant only if the Board's Executive Director determines, after reviewing the license application package, that the applicant has never held a temporary license and is eligible to receive a license except that one or more of the following documents are missing from the license application package:
1. Passing score on the CRT examination,
 2. Verification of license from another state in which the applicant is or was licensed,
 3. Certified copy of course transcripts and descriptive information regarding the applicant's course of study at a foreign respiratory therapy school, or

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4. Completed federal and state criminal background check.
- B. An applicant who is issued a temporary license shall:
 1. ~~perform~~ Perform respiratory care services only under direct supervision;
 2. Not supervise a licensee or another temporary licensee, and
 3. Work as an instructor or in a management position only if issued the temporary license under A.R.S. § 32-3524.
- C. A temporary licensee who applied for licensure under A.R.S. § 32-3524 may ~~renew~~ extend the temporary license for an additional 120 days by submitting a request for ~~renewal~~ an extension to a temporary license form to the Board ~~on a form prescribed by the Board.~~
- D. A temporary licensee who is required by A.R.S. § 32-3523 and R4-45-201 to pass the CRT examination before becoming licensed may ~~renew~~ extend the temporary license for an additional 120 days by submitting to the Board:
 1. A request for ~~renewal on a~~ an extension to a temporary license form ~~prescribed by the Board,~~ and
 2. Evidence that the temporary licensee has either:
 - a. Passed the CRT examination, or
 - b. Attempted to pass the CRT examination and is registered to take the next scheduled CRT examination.
- E. ~~The~~ A temporary licensee shall ensure that a request for a renewed an extension to a temporary license shall:
 1. ~~include~~ Includes an address of record,
 2. ~~Be~~ Is typed or written in black ink,
 3. ~~Be~~ Is signed by the applicant, and
 4. ~~Be~~ Is accompanied by the following:
 - a. The fee prescribed in R4-45-102(A)(5), and
 - b. ~~A statement under oath~~ An affirmation that the temporary license has not expired.
- F. A temporary licensee who is required but unable to submit the evidence under subsection (D)(2) may request an opportunity to explain this inability to the Board.
- G. ~~The~~ If the Board has not acted on an applicant's application for licensure, the Board shall administratively close ~~an~~ the application for licensure if the applicant fails to ~~apply for renewal of~~ request an extension to the applicant's temporary license. The temporary licensee shall apply for ~~renewal~~ extension no more than 60 days before expiration of the temporary license. An individual who wishes to be considered for licensure after the individual's file is administratively closed shall reapply.
- H. Reapplication under subsection (G) does not qualify an individual for a second temporary license. The Board shall not issue more than one temporary license to an individual.
- I. A temporary licensee is subject to disciplinary action by the Board under A.R.S. § 32-3553.

R4-45-214. Standards of Professional Conduct

Conduct or practice that is contrary to recognized standards of ethics of the respiratory therapy profession, as used in A.R.S. § 32-3501(10)(i), includes the following:

1. Engaging in the practice of respiratory care in a manner that harms or may harm a patient or that the Board determines falls below the community standard;
2. Procuring or attempting to procure by fraud or misrepresentation a license or renewal of a license to practice respiratory care;
3. Violating a formal order, condition of probation, or stipulation issued by the Board;
4. Obtaining a fee by fraud, deceit, or misrepresentation;
5. Falsely claiming attendance at an approved continuing education to meet license renewal requirements;
6. Endangering a patient's or the public's physical or emotional health or safety or engaging in conduct or practice that may reasonably be expected to do so;
7. Engaging in sexual intimacies with a patient unless the sexual intimacies were initiated before the practitioner-patient relationship was established;
8. Committing an act of sexual abuse, misconduct, harassment, or exploitation;
9. Acting in a manner that the Board determines, based on community standards, constitutes incompetence, gross negligence, repeated negligence, or negligence that results in harm or death of a patient;
10. Abandoning or neglecting a patient, including ~~failing to report for or~~ leaving a respiratory therapy assignment before properly advising ~~appropriate~~ supervisory personnel;
11. Failing to report for scheduled duty without properly advising supervisory personnel;
- ~~11-12.~~ Using or being under the influence of alcohol, illegal drugs or substances, or drugs or substances that impair judgment, while on duty in any health care work location;
- ~~12-13.~~ Impersonating another licensed practitioner;
- ~~13-14.~~ Knowingly employing, directing, or supervising an individual in the performance of respiratory care who is not authorized to practice respiratory care;
- ~~14-15.~~ Violating the confidentiality of information concerning a patient;
- ~~15-16.~~ Inaccurately recording, falsifying, or altering a patient record, including a patient chart or medication administration record;

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- ~~16-17.~~ Misrepresenting or omitting a fact on an application for employment as a respiratory care practitioner;
~~17-18.~~ Retaliating against any person who reports in good faith to the Board alleged incompetence or illegal or unethical conduct of any practitioner;
~~18-19.~~ Using, removing, or possessing property that belongs to an individual or entity without authorization;
~~19-20.~~ Threatening the physical health or safety of a Board member or the Board's staff; and
~~20-21.~~ Knowingly exceeding the scope of practice for a respiratory care practitioner at any health care location as the scope of practice is defined by the entity responsible for that health care location.

ARTICLE 3. HEARINGS

R4-45-301. Hearing Procedures

The Board shall conduct all hearings, including those held under A.R.S. § 32-3553, according to the procedures in A.R.S. Title 41, Chapter 6, Article 10 ~~and rules issued by the Office of Administrative Hearings.~~

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES

[R08-68]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R17-4-401 | Amend |
| R17-4-404 | Amend |
| Table 1 | New Table |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 28-366
Implementing statute: A.R.S. § 28-3306(A)(3)
- 3. The effective date of the rules:**
March 4, 2008

In the interest of public safety, the Division requests an immediate effective date upon filing with the Secretary of State, as permitted under A.R.S. § 41-1032(A). These rules have been promulgated so that the Division will be afforded a more effective method of tracking and identifying those drivers who have been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with such a frequency that it indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 13 A.A.R. 3700, November 2, 2007
Notice of Proposed Rulemaking: 13 A.A.R. 4287, December 7, 2007
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Celeste M. Cook, Administrative Rules Analyst
Address: Administrative Rule Unit
Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007

Telephone: (602) 712-7624
Fax: (602) 712-3081
E-mail: ccook@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.azdot.gov/mvd/MVDRules/rules.asp.

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6. An explanation of the rule, including the agency's reason for initiating the rule:

The Arizona Department of Transportation, Motor Vehicle Division proposes to adopt rulemaking to revise the current driver point value system and to ensure conformity to Arizona Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council rulemaking format and style requirements.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The driver point assessment process is developed as part of a comprehensive highway safety program designed to achieve a significant reduction in traffic crashes, fatalities, and injuries on public roads. The Division assigns a point value to each moving violation; the more severe the violation, the higher the point value assigned.

The Division anticipates no additional administrative costs associated with this rulemaking as the Division already has a driver point assessment system and reinstatement process in place.

The Division anticipates that political subdivisions will incur no additional costs as a result of this rulemaking.

The Division anticipates that businesses will incur no additional costs as a result of this rulemaking.

Insurance agencies may incur substantial benefits as persons whose record contains points accumulated within the most recent 39-month period are typically charge a higher automotive insurance premium.

Traffic survival schools may incur moderate to substantial benefits as the Division requires a person who accumulates between 8 to 12 points in the 12-month period to attend traffic survival school.

A person who accumulates 2 or more points may incur minimal to moderate costs depending on the points accumulated and any resulting action taken by the Division as a result of the point accumulation.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor grammatical and style corrections were made to some Sections at the request of Division and G.R.R.C. agency staff.

11. A summary of the comments made regarding the rule and the agency response to them:

Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously made as an emergency rule? If so, please indicate the *Register* citation:

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 4 DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

ARTICLE 4. DRIVER LICENSES

Section

R17-4-401. Definitions

R17-4-404. Driver ~~Point System~~ Point Assessment

Table 1. Driver Point Valuation

ARTICLE 4. DRIVER LICENSES

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R17-4-401. Definitions

In addition to the definitions provided under A.R.S. §§ 28-101, 28-1301, and 28-3001, the following definitions apply to this Article unless otherwise specified:

~~“Certified ignition interlock device has the meaning prescribed in A.R.S. § 28-1301(1).~~

~~“Director” means the Division Director or the Division Director’s designee.~~

“Division” means the Arizona Department of Transportation, Motor Vehicle Division.

~~“Education” has the meaning prescribed in A.R.S. § 28-1301(3).~~

“Financial responsibility (accident) suspension” means a suspension by the Division of:

The Arizona driver license or driving privilege of an owner of a vehicle that:

Lacks the coverage required by under A.R.S. § 28-4135, and

Is involved in an accident in Arizona; and

The Arizona registration of a vehicle ~~specified under R17-4-402(A)~~, unless the Division receives proof the vehicle was sold.

“Gore area” is defined ~~in~~ under A.R.S. § 28-644.

~~“Ignition interlock device” has the meaning prescribed in A.R.S. § 28-1301(4).~~

“Proof the vehicle was sold” means a written statement to the Division from an owner that includes the following:

The seller’s name;₂

The VIN;₂

The sale date;₂ and

The purchaser’s name and address.

“Restricted permit” means written permission from the Division for:

A person subject to a financial responsibility (accident) suspension to operate a motor vehicle only:

Between the person’s home and workplace,

During the person’s work-related activities, or

Between the person’s home and school; and

A vehicle with an Arizona registration subject to a financial responsibility (accident) suspension to be operated by a person specified under R17-4-402 only:

Between the person’s home and workplace;

During the person’s work-related activities; or

Between the person’s home and school.

~~“Screening” has the meaning prescribed in A.R.S. § 28-1301(8).~~

“State” means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

“SR22” means a certificate of insurance that complies with requirements under A.R.S. § 28-4077(A).

~~“Tampering” has the meaning prescribed in A.R.S. § 28-1301(9).~~

“Thirty-six-month period” means the time measured from the date of the most recent violation with assigned points for which a driver has a conviction or judgment to that day and month three years before the date of the violation.

“Traffic survival school” means a Division-licensed business that offers training and educational sessions to improve the safety and habits of drivers required to successfully complete the training and educational sessions under Arizona Revised Statutes, Title 28.

~~“Treatment” has the meaning prescribed in A.R.S. § 28-1301(10).~~

“Twelve-month period” means the time measured from the date of the most recent violation with assigned points for which a driver has a conviction or judgment to that day and month one year before the date of the violation.

“Twenty-four-month period” means the time measured from the date of the most recent violation with assigned points for which a driver has a conviction or judgment to that day and month two years before the date of the violation.

“VIN” or “vehicle identification number” is defined ~~in~~ under A.R.S. § 13-4701(4).

“Withdrawal action” means a Division action that invalidates a person’s Arizona driving privilege or a vehicle’s Arizona registration ~~that~~ which includes:

A cancellation.

A suspension;₂

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A revocation;₂
Any outstanding warrant;₂ or
Any unresolved citation.

R17-4-404. Driver ~~Point System~~ Point Assessment

~~A.~~ The following definitions apply to this Chapter unless otherwise specified:

1. "Conviction" is defined in A.R.S. § 28-101(12).
2. "Driver" is defined in A.R.S. § 28-101(18).
3. "Gore area" is defined in A.R.S. § 28-644.
4. "Judgment" is defined in A.R.S. § 28-3001(11).
5. "Suspension" is defined in A.R.S. § 28-3001(16).
6. "Thirty-six month period" means the time measured:
 - a. From the date of the most recent violation with assigned points for which a driver has a conviction or judgment, and
 - b. To that day and month three years before the date of the violation under subsection (A)(8)(a).
7. "Traffic survival school" means a Division licensed business that offers training and educational sessions to improve the safety and habits of drivers required to successfully complete the training and educational sessions under Arizona Revised Statutes, Title 28.
8. "Twelve month period" means the time measured:
 - a. From the date of the most recent violation with assigned points for which a driver has a conviction or judgment, and
 - b. To that day and month one year before the date of the violation under subsection (A)(10)(a).
9. "Twenty-four month period" means the time measured:
 - a. From the date of the most recent violation with assigned points for which a driver has a conviction or judgment, and
 - b. To that day and month two years before the date of the violation under subsection (A)(11)(a).

~~A.~~ Point assessment. The Division shall assign points to a driver, as prescribed under Table 1, Driver Point Valuation, for each violation resulting in a conviction or judgment.

~~B.~~ Actions after point assessment. Under A.R.S. § 28-3306(A)(3), if a driver accumulates eight or more points in the ~~12-month~~ twelve-month period defined in subsection (A)(8), the Division shall:

1. Order the driver to successfully complete the curriculum of a licensed traffic survival school; or
2. Suspend the driver's Arizona driver license or driving privilege; ~~or~~
3. Suspend the Arizona driving privilege of a driver not licensed by the Division under A.R.S. § 28-3152.

~~C.~~ The Division shall assign points to a driver for each violation resulting in a conviction or judgment as follows:

Violation	Points
1. A.R.S. § 28-1381, driving or actual physical control of a vehicle while under the influence of intoxicating liquor or drugs;	8
2. A.R.S. § 28-1382, driving or actual physical control of a vehicle while under the extreme influ- ence of intoxicating liquor;	8
3. A.R.S. § 28-693, reckless driving;	8
4. A.R.S. § 28-708, racing on highways;	8
5. A.R.S. § 28-695, aggressive driving;	8
6. A.R.S. §§ 28-662, 28-663, 28-664, or 28-665, relating to a driver's duties after an accident;	6
7. A.R.S. § 28-672(A), failure to comply with a red traffic control signal, failure to yield the right of way when turning left at an intersection, or failure to comply with a stop sign, and the failure results in an accident causing death to another person;	6
8. A.R.S. § 28-672(A), failure to comply with a red traffic control signal, failure to yield the right of way when turning left at an intersection, or failure to comply with a stop sign, and the failure results in an accident causing serious physical injury to another person;	4
9. A.R.S. § 28-701, speeding;	3
10. A.R.S. § 28-644(A)(2), driving over or across, or parking in any part of a gore area; and	3
11. Any other traffic regulation that governs a vehicle moving under its own power.	2

~~D-C.~~ Traffic survival school order of assignment. The Division shall send a dated order of assignment to traffic survival school, as prescribed under A.R.S. § 28-3318, to a driver ~~with who~~ accumulates 8 to 12 points in the ~~12-month~~ twelve-month period defined in subsection (A)(10), and who did not previously complete traffic survival school in the ~~24-month~~

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~~twenty-four-month period, defined in subsection (A)(11)-~~

1. The order of assignment shall:
 - a. Instruct the driver to submit any hearing request to the Division within 15 days after the date of the order of assignment; and
 - b. Instruct the driver that failure to successfully complete traffic survival school within 60 days after the date of the order of assignment will result in the Division issuing a six-month order of suspension.
2. The Division shall record that a driver completed traffic survival school if:
 - a. A licensed traffic survival school reports that the driver successfully completed the curriculum, or
 - b. The driver presents to the Division an original certificate of completion issued by a licensed traffic survival school, within 30 days of issuance of the certificate.
3. ~~The Division shall send a driver a six-month order of suspension under A.R.S. § 28-3318, if the driver does not establish completion of traffic survival school in accordance with subsections (C)(1) and (C)(2).~~
4. ~~The Division shall specify on an order of suspension:~~
 - a. ~~The period within which the driver may make a hearing request to the Division; and~~
 - b. ~~The effective date of the suspension.~~

D. Suspension for failure to complete traffic survival school. The Division shall mail a driver a six-month order of suspension, as prescribed under A.R.S. § 28-3318, if the driver failed to establish completion of traffic survival school in accordance with subsection (C). The order of suspension shall:

1. Specify the period within which the driver may submit a hearing request to the Division; and
2. Specify the effective date of the suspension.

E. Suspension for accumulation of excessive points. The Division shall: ~~mail an order of suspension as prescribed under A.R.S. § 28-3318 to a driver who accumulates an excessive amount of points. The order of suspension shall:~~

1. ~~Send a driver an order of suspension under A.R.S. § 28-3318 when the driver comes under subsections (B) or (C);~~
2. Specify the length of the suspension on the order of suspension as follows:
 - a. A three-month suspension for accumulation of 13 to 17 points in the ~~12-month~~ twelve-month period defined in subsection (A)(10);_;
 - b. A three-month suspension for accumulation of 8 to 12 points in the ~~12-month~~ twelve-month period defined in subsection (A)(10) and traffic survival school successfully completed in the ~~24-month~~ twenty-four-month period defined in subsection (A)(11);_;
 - c. A six-month suspension for accumulation of 18 to 23 points in the ~~12-month~~ twelve-month period defined in subsection (A)(10);_; and
 - d. A 12-month suspension for accumulation of 24 or more points in the ~~36-month~~ thirty-six-month period defined in subsection (A)(8); and
3. Specify, on the order of suspension: the period within which the driver may submit a hearing request to the Division; and
 - a. ~~The period within which the driver may make a hearing request to the Division; and~~
 - b. ~~The effective date of the suspension.~~
3. Specify the effective date of the suspension.

F. Approved Licensed schools.

1. Under the provisions of A.R.S. § 28-3307, the ~~Department~~ Division ~~will shall~~ assign licensees an individual only to ~~schools approved~~ a traffic survival school licensed by the ~~Assistant~~ Director ~~in writing~~.
2. Governmental agencies, corporations, or other individuals conducting training and educational sessions designed to improve the safety and habits of drivers may, upon request, receive the approval of the ~~Assistant~~ Director when they offer the approved curriculum taught by qualified instructors.

G. Approved curriculum. The ~~Assistant~~ Director shall approve in writing a uniform curriculum that the traffic survival school shall teach to ~~licensees~~ individuals assigned to ~~schools~~ school. The curriculum will be selected and approved on the basis of effectiveness in improving the safety and habits of drivers.

H. Qualified instructors. Only those persons who meet the following qualifications will be deemed qualified instructors and allowed to teach ~~licensees~~ individuals assigned by the ~~Department~~ Division to ~~approve~~ approved schools:

1. ~~Instructors~~ An instructor shall be a high school ~~graduates~~ graduate and shall have successfully completed an examination given for qualifications of instructors by the ~~Department~~ Division, ~~or shall be certified to teach driver education by the State Department of Education.~~
2. ~~Instructors~~ An instructor shall complete a curriculum workshop approved by the ~~Assistant~~ Director. An instructor may be temporarily certified if the instructor successfully completes, as a student, a course using Division approved curriculum and agrees ~~that the instructor will~~ to attend the next available curriculum workshop for complete orientation.
3. ~~The instructors~~ An instructor shall be at least 21 years of age, have an acceptable personal driving record, be accepted for employment by an approved school, and be of good moral character.

I. Withdrawal of approval. The ~~Assistant~~ Director is authorized, after affording a party a hearing, to withdraw approval of

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any training and education school and is authorized to withdraw ~~his~~ the approval of any instructor when satisfactory evidence, ~~satisfactory to him~~, shows a school or instructor, individually or collectively, has failed to maintain the approved standards or has given the ~~Department~~ Division false information in their application for approval.

- J.** Conflict of interest. No full-time employee of the state of Arizona shall receive any direct pecuniary payments from registration fees paid by those who attend approved schools.

Table 1. Driver Point Valuation

<u>Violation</u>	<u>Points</u>
<u>A.R.S. § 28-1381, driving or actual physical control of a vehicle while under the influence.</u>	<u>8</u>
<u>A.R.S. § 28-1382, driving or actual physical control of a vehicle while under the extreme influence of intoxicating liquor.</u>	<u>8</u>
<u>A.R.S. § 28-1383, aggravated driving or actual physical control while under the influence.</u>	<u>8</u>
<u>A.R.S. § 28-693, reckless driving.</u>	<u>8</u>
<u>A.R.S. § 28-708, racing on highways.</u>	<u>8</u>
<u>A.R.S. § 28-695, aggressive driving.</u>	<u>8</u>
<u>A.R.S. §§ 28-662, 28-663, 28-664, or 28-665, relating to a driver's duties after an accident.</u>	<u>6</u>
<u>A.R.S. § 28-672(A), failure to comply with a red traffic-control signal, failure to yield the right of way when turning left at an intersection, failure to yield the right of way to a pedestrian, failure to exercise due care, failure to stop for a school bus stop signal, or failure to comply with a stop sign, and the failure results in an accident causing death to another person.</u>	<u>6</u>
<u>A.R.S. § 28-672(A), failure to comply with a red traffic-control signal, failure to yield the right of way when turning left at an intersection, failure to yield the right of way to a pedestrian, failure to exercise due care, failure to stop for a school bus stop signal, or failure to comply with a stop sign, and the failure results in an accident causing serious physical injury to another person.</u>	<u>4</u>
<u>A.R.S. § 28-701, reasonable and prudent speed.</u>	<u>3</u>
<u>A.R.S. § 28-644(A)(2), driving over, across, or parking in any part of a gore area.</u>	<u>3</u>
<u>Any other traffic regulation that governs a vehicle moving under its own power.</u>	<u>2</u>